

SBA LEGISLATION AND PROGRAMS (PART 1)

HEARINGS BEFORE THE COMMITTEE ON SMALL BUSINESS HOUSE OF REPRESENTATIVES NINETY-SEVENTH CONGRESS FIRST SESSION

WASHINGTON, D.C., MARCH 18 AND APRIL 7, 1981

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SBA LEGISLATION AND PROGRAMS (PART 1)

WEDNESDAY, MARCH 18, 1981

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SMALL BUSINESS,
Washington, D.C.

The committee met pursuant to notice, at 8:35 a.m., in room 2359-A, Rayburn House Office Building, Hon. Parren J. Mitchell (chairman of the committee) presiding.

OPENING STATEMENT OF CHAIRMAN MITCHELL

Mr. MITCHELL. The hearing will come to order. This morning, we are pleased to welcome officials of the Small Business Administration before the committee to testify on the agency's budget for fiscal years 1981 and 1982.

Based on the information we have received, we understand that the cuts being made in the SBA's budget were dictated by the Office of Management and Budget. In order to ascertain the rationale of some of the cuts imposed by the Office of Management and Budget, we requested that an OMB official also appear and testify. Unfortunately, the Office of Management and Budget refused to do so.

[Correspondence follows:]

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
COMMITTEE ON SMALL BUSINESS,
Washington, D.C., March 12, 1981.

Hon. DAVID A. STOCKMAN,
Director, Office of Management and Budget,
Washington, D.C.

DEAR MR. DIRECTOR: In order that the Small Business Committee may provide the Budget Committee with our views and estimates on the Small Business Administration's Budget for Fiscal years 1981 and 1982, and particularly the changes proposed by the Reagan Administration, we have scheduled a full committee hearing on Tuesday, March 17, 1981.

Accordingly, it is requested that Ms. Annelise Anderson, Associate Director for Economics and Government, Office of Management and Budget, appear and testify on this matter. The hearing will commence at 8:30 a.m. and will be held in the Committee's main hearing room, 2359-A of the Rayburn House Office Building.

It is further requested that the Committee be provided with seventy-five copies of her prepared statement and that we receive several advance copies, if at all possible under these time constraints.

We previously telephoned our request for her appearance both to her office and to your office of Legislative Affairs.

Best wishes,

PARREN J. MITCHELL, *Chairman.*

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
COMMITTEE ON SMALL BUSINESS,
Washington, D.C., March 16, 1981.

Hon. DAVID A. STOCKMAN,
Director, Office of Management and Budget,
Washington, D.C.

DEAR MR. DIRECTOR: I have been advised by your office that neither you nor your Associate Director for Economics and Government, Office of Management and Budget, will appear and testify before the Small Business Committee on Wednesday, March 18, 1981.

It is extremely unfortunate that we must make our recommendations on your budget for SBA in the dark and without any explanation or justification for what appears to be disproportionate cuts. Your direct input becomes even more critical to our decision process unless someone from OMB is able to discuss the budget with SBA officials so that we might at least receive the rationale second hand at Wednesday's hearing.

Although I cannot speak for the Committee at this time, I personally believe that SBA's budget is not sacred and that it must make its contribution towards reducing Federal spending, providing the budget cuts are fair and equitable and not counter-productive. Based upon the information I have received to date, however, I have very serious reservations about your proposed budget.

If, for example, small business is the Nation's job creator, as was pointed out by the President in his message, "A Program for Economic Recovery", what will be the impact on unemployment of the reductions in financial assistance—a cut of almost forty-four percent in direct loans and a cut of almost one-third in loan guarantees in the remaining months of this fiscal year?

How are you going to determine which disaster victims should be denied loan assistance, either by lack of funds or an unaffordable interest rate?

Why should the Federal government make a profit on interest rates charged to small business borrowers?

Why reduce the program level for pollution control bonds when this program is actually operating at a profit and thus the reduction results in increasing Federal outlays?

I also have other questions on such matters as the reduced assistance to minority enterprises, and I am sure that other Members have others. Unfortunately, apparently these questions must go unanswered.

I certainly hope, however, that your decision not to testify does not reflect a decision to downgrade the importance of the small business community.

Best wishes,

PARREN J. MITCHELL, *Chairman.*

Mr. MITCHELL. Hopefully, as I stated in my response letter to Director Stockman, the Office of Management and Budget has now explained the rationale to SBA and we can now learn of these matters secondhand.

I want to note at the outset that the administration has proposed very substantial cuts and changes in a number of Small Business Administration programs, such as:

Fiscal year 1981 direct loan money for the business loan investment fund. That's down by 33.8 percent.

The nonphysical disaster loans such as OSHA, displaced business, and energy shortages, would be eliminated.

Direct loans to local development companies would be eliminated.

Direct loans for energy conservation would be eliminated in the administration's proposal.

The interest rates on direct loans proposition would be increased from 100 to 700 percent.

For the disaster loan interest rates, it's proposed that they be increased up to 450 percent.

I want to welcome the Acting Administrator, Roger Jones, and his associates before the committee.

Mr. McDade, the ranking minority member, is not here, and I ask unanimous consent that his opening statement be submitted for the record.

OPENING STATEMENT OF HON. JOSEPH M. McDADE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. McDADE. Thank you, Mr. Chairman.

Mr. Jones, on behalf of the minority, I want to thank you for appearing before us today. I am deeply disappointed that OMB did not choose to send a representative to answer the troubling questions I know many members have.

I am particularly concerned about the availability of data concerning this budget proposal. It is very difficult for the members of this committee to make decisions on program levels when the rationale for those program levels has not been provided.

More importantly, when members specifically request information, there is a clear and unmistakable expectation that the information will be provided. We do not work in a vacuum—we expect and we offer cooperation. Without cooperation from the administration this Government will not function well.

We welcome the sweeping changes in attitude this administration brings to the Nation's Government. We intend to support the changes so deeply needed. But, let there be no mistake, we intend to play a vital role in that change. We are ready to work with you, but we expect that we will never be asked to blindly agree to any proposal.

Mr. MITCHELL. Mr. Jones, we'd be delighted to hear from you.

TESTIMONY OF ROGER H. JONES, ACTING ADMINISTRATOR, SMALL BUSINESS ADMINISTRATION, ACCOMPANIED BY HARRY CARVER, SMALL BUSINESS ADMINISTRATION'S CONTROLLER

Mr. JONES. Thank you very much, Mr. Chairman. My associate with me, at the table, is Mr. Harry Carver, the Small Business Administration's Controller, and head of the Budget Office. I expect to be joined very shortly by Mr. Edward Norton, the SBA's General Counsel.

Mr. Chairman, for the record, my name is Roger H. Jones, and as you've noted, I am currently serving as Acting Administrator of the Small Business Administration. I welcome this opportunity to appear before the committee to explain the fiscal year 1982 budget revisions applicable to the Small Business Administration. I especially appreciate the courtesy of the committee in extending this opportunity, and I also understand and respect the task and responsibility of the committee to make its recommendations to the House Budget Committee. Inasmuch as the fiscal year 1982 budget revision document was not available until 1 p.m., Tuesday of last week, we all share in the responsibility of respecting the committee's deadlines in making its recommendations.

Mr. Chairman, the budget of the United States is extraordinarily complex. The proposed revisions for fiscal year 1982 are—in like

manner—complex, and they rest upon a many faceted but well thought out program for economic recovery. I thought I might start by outlining briefly how the SBA fits into the overall program of economic recovery, which—in turn—helps me, at least, to explain the rationale for the specific revisions in the SBA budget package. I intend to focus mainly on the specifics of the SBA revisions, but, if I may, Mr. Chairman, I'd like to proceed from the scope of the larger tapestry to the detail of SBA's small portion of that tapestry.

As we all know, President Reagan has outlined on the broadest scale five principal objectives in the economic recovery program:

One, substantial cuts in Government spending; two, companion cuts in tax rates; three, removal of excessive Government regulation; four, development of a monetary policy that will rationally control the money supply; and five, sure and predictable movement toward a balanced budget in fiscal year 1984.

The proposed revisions in the SBA budget are directly related to these objectives. How? The answer is that in SBA's case—and in the case of all executive branch agencies—the budget reductions were developed on the basis of a set of nine economic criteria used in evaluating the many competing claims for Federal support. Those criteria were presented on pages 8 and 9 of the document detailing the fiscal year 1982 budget revisions proposed for the many agencies, including SBA. Four of those criteria are directly applicable in SBA's circumstances. They are:

One, the reduction of benefits for people within middle to upper incomes.

Two, the application of rigorous standards to economic subsidy programs.

Three, the imposition of fiscal restraint on programs of national interest which have merit, but which, given the large urgency of constraint on available resources, must be curtailed or eliminated.

Four, the reduction of Federal overhead and personnel costs.

These and the other criteria explained in the document were applied to the many agencies involved in the capital spending programs, such as the Energy Department, and they were also applied to the agencies involved, principally in the Federal credit programs, such as SBA, Farmers' Home Administration, the Rural Electrification Administration, the Economic Development Administration, the Federal Housing Administration, and certain other credit programs in Agriculture and Education.

The administration in its approach to the credit budget, proposes to work with the Congress to control credit programs in two principal ways:

One, by proposing annual appropriation bill limitations on new obligations for direct loans and on new commitments for loan guarantees, and

Two, by proposing changes to the basic authorizing legislation for programs that are not acted on in annual appropriations bills.

Mr. Chairman, the administration, in meeting its five objectives through application of the criteria enumerated, is proposing—in terms of appropriations and other budget authority, in the overall sense of it, elimination of some \$67 billion in fiscal year 1982, and elimination of over \$475 billion in the period 1981 to 1986. It is pro-

posing to bring the rate of increase of Federal spending below the rate of increase in the gross national product—a fundamental concept in terms of curbing inflation. Of particular significance for SBA, it is also proposing reductions in fiscal year 1982 of \$0.7 billion in off-budget outlays associated with Federal lending or loan guarantee programs. The overall reductions in direct loans for fiscal year 1982, are proposed to be \$2.6 billion—and in guarantee loan commitments the overall reductions proposed for fiscal year 1982, are \$18.4 billion.

The administration recognizes that reductions in spending authority do not result in immediate reductions of comparable size in outlays.

Indeed, in fiscal year 1982 the total budget immediate outlay reduction will probably be only about one-third of ultimately realizable outlay reductions. But this is consistent with, and a part of the larger plan for follow-on reductions of \$475 billion over the period 1981 to 1986, and with the companion plan for reduced taxes, control of the monetary supply, and achievement of a balanced budget.

Now in the Small Business Administration's case, we asked ourselves what are our constituents—the 12 to 16 million small businesses in the country—really interested in? We think clearly the answer is that they are interested in (1) curbing inflation, (2) access to credit at reasonable rates, (3) reduction in taxes, and (4) deregulation.

We feel that the proposed revisions in SBA's fiscal year 1982 budget are consistent both with the larger economic recovery goals and with the specific interest of small business.

Looking at the larger goals, the criteria for evaluating programs, and the specific small business interests, we naturally had to focus on each one of our program areas, such as, financial assistance, procurement assistance, management assistance, minority small business, capital ownership development, and so forth, on opportunities for reduction in outlays commensurate with maintenance of mainstream efforts to meet the particular small business program objectives. And in focusing on these opportunities for outlay reductions that will have impact in fiscal year 1982, and beyond, we applied the criteria mentioned—such as application of rigorous standards to economic subsidy programs, reduction of benefits for people with middle to upper incomes, and so forth. Our options beyond cuts in our overhead—in personnel and travel—were very limited. And that is how and why, for example, in the management assistance area we had to focus on the Small Business Development Center program, and why we had to focus on the business development expense, and the 7(j) contracts in the MSD-COD area, and why we had to focus on nonphysical disasters and so forth. These were tough choices before the Congress and this committee. Reasonable men can differ on priorities—but we are a part of, perhaps a small part, of an overall economic recovery effort, and we recognize our responsibility in helping to achieve that recovery—not only for all Americans, but specifically also for small business which is struggling to survive under stifling taxes and unacceptable inflation.

We feel that the proposed SBA reductions will enable us to achieve the objectives desired by the overwhelming majority of small businesses, that they will allow us to meet our continuing mainstream responsibilities, that they will contribute to the objective of reducing outlays and off-budget spending now and in the future, and that they are consistent with the criteria for evaluating competing claims for Federal support.

Mr. Chairman, as to our specific proposed budget reductions for fiscal year 1982. As you've quite accurately noted, in the business lending area, we propose a 25 percent reduction from the previous administration's budget; both in direct and guaranteed loans.

In the direct loan program, a reduction from \$346 million to \$260 million in fiscal year 1982 is recommended.

We proposed to increase direct loan interest rates to a market rate that is equivalent to the cost of a guaranteed loan. The low interest rates on direct loans clearly generate an artificial demand with no end. Any sensible business would seek a loan at roughly half the market rate.

At present lower interest rates, our program is a sort of lender of first resort. It should be a lender of last resort. for those unable to get a bank loan.

We propose to consolidate the various loan programs, all with different rates, terms and so on, into one direct loan program.

In the guaranteed program, the 25-percent reduction will mean tightening up. We cannot go on expanding our guarantees indefinitely.

The ceiling will be \$3.2 billion, rather than the \$4.2 billion, originally proposed. The new ceiling is equal to the fiscal year 1980 actual level.

In the disaster lending program we propose to get SBA finally and fully out of the farm lending program in fiscal year 1982. Hence our request is down sharply to \$440 million. We propose to end nonphysical disaster loans entirely in fiscal year 1982. We propose to have a "credit elsewhere," test or threshold. This means that we will be making disaster loans only to those who cannot borrow from the banks. We propose to have one interest rate for all business disaster loans, essentially the cost of money to the Treasury. This rate, right now a little over 13 percent, is consistent with that proposed for farmers under the Farmers' Home Administration emergency loss loan program, and will still be below the rate charged for a bank loan.

In the disaster lending program for fiscal year 1981 the President will not be sending up a supplemental request for \$780 million previously recommended. We will have sufficient funds on hand for a program level of about \$2 billion. About \$1 billion of this \$2 billion is not yet paid out, although we have many applications on hand.

In the pollution control area, we are reducing, or proposing to reduce the budget request to \$95 million in fiscal year 1982. This is roughly the fiscal year 1980 level, which was \$98.5 million. This is a good program. Nonetheless, we must reduce the Federal involvement in credit markets and do our part in bringing down the interest rates. This is one cut among many across the Federal budget and we find it acceptable.

In the salaries and expenses and staffing area we are reducing expenditures by about 10 percent from \$242 to \$221 million in fiscal year 1982. We will be reducing staffing levels by some 165 positions by the end of fiscal year 1982, and reallocating positions to put more resources into portfolio management, where we have strong needs. These staffing changes are in line with program reductions. They can be accommodated, we believe, without drastic disruption of SBA's operations, and without some general "reduction in force."

In the Small Business Development Center area, we propose no funding for fiscal year 1982. I am aware of the interest of various members in the university-based program. We simply feel that, amid a general budget cutting exercise necessary to the economy and the health of small business, we must share in the "pain" of reduction. We have a good management assistance effort in other areas, such as SCORE/ACE programs. We are not abandoning management assistance by any means.

In the women-in-business area, we have proposed a reduction that is more in line with the position taken by the Appropriations Committee. We are not eliminating funding. There will be \$1.6 million in fiscal year 1982, plus "mainstream" funds of \$1.3 million in procurement and management assistance.

The 8(a) program shares in the general business loan and staffing reductions. Two special accounts, the business development expenses and the 7(j) call contracting, are reduced by about 15 percent, from \$36 to \$30 million in fiscal year 1982.

We need to do a much better job in managing the 8(a) programs and we intend to. This, we hope, will produce less waste and more impact for the dollar.

I would like to close by saying that we do not believe, I do not believe nor does SBA as a group of people, that we have been specially hard hit by the budget cuts. If anything we have come off rather well. We have a strong interest in our economy, and in a slower inflation rate, in interest rates which will allow small business to survive. We can actively support these and the more general reductions, Mr. Chairman.

Mr. MITCHELL. Thank you very much for your statement. I must confess it did not make me ecstatic, but I thank you for giving it to us anyway.

Before we proceed with the questions, I want to note that a Member of the British Parliament is here with us this morning, Mr. Tom McNally.

[Mr. McNally acknowledges.]

Mr. MITCHELL. He's a member of the British Labour Party and he is a first term member who sits on the Committee of Trade and Industry. He has been a political adviser to Prime Minister Callaghan, and he is here because he has a great deal of interest in small business operations in this country. We welcome you, very much, Mr. McNally.

The Chair proposes that we operate under the 5-minute rule for questioning, because we have a large number of members here, and I think that's the fair way to handle it this morning.

I might open with a couple of questions to Mr. Jones, first.

Mr. JONES. Yes, sir.

Mr. MITCHELL. You pointed out the general broad tapestry and nine specific criteria that you used to rationalize cuts in the Small Business Administration. I'd like to get a little more specific. I want to get beyond that broad tapestry. By way of illustration, in your business loan and investment funds for fiscal year 1981, direct loans would be reduced by \$99.5 million. Since a part of the fiscal year has already elapsed, this translates out to a cut of 33.8 percent in February through September.

Now, more specifically, beyond the nine criteria and general overall broad tapestry, how did you happen to arrive at this specific cut? And, if I may, in the same fashion in 1982, you propose an additional \$44 million cut, how did you arrive at both of those cuts, 1981 and 1982?

Mr. JONES. Sir, they are simply part of the overall administration policy, and in consultation with the Office of Management and Budget these specific cuts were recommended.

Mr. MITCHELL. May I ask you, Mr. Jones, in your initial submission, your initial preparation for the budget for SBA, can you recall what figure you had for 1981 and 1982 in direct loans?

Mr. JONES. Yes, sir, Mr. Carver has that figure, I believe.

Mr. CARVER. You mean the OMB request, sir?

Mr. MITCHELL. Yes, your first submission. Can you recall what the figure was?

Mr. CARVER. No, sir, I believe they were in the neighborhood of \$346 million that did come up in the original administration budget, the previous administration budget.

Mr. MITCHELL. I'd be very interested in knowing what your original figures were, because I would assume that your original figures were based upon pretty accurate assessments made within house as to what was needed to carry on your programs.

I have time for one more question. That's on the loan consolidation. You're proposing consolidation of several programs, 7(a) and 7(h) and so forth into one broad consolidated loan program. It's my opinion that each of these programs has a different eligibility criteria, or it's specifically designed for target population. Aren't you precluding these target groups from any loan assistance under a consolidated program such as you recommend?

Mr. JONES. No, sir, I don't believe we are. It's quite true that over the years there have developed a number of these specific programs, but what we have today, is a situation where we have programs with varying interest rates, and varying criteria that have become a problem to administer. For example, if I might just use one illustrative example, in the consolidation, what we hope to do, really, is to make better opportunity available to certain present recipients of some of these special programs who might otherwise be limited. For example, in the handicap assistance area, we have a situation right now where there is a waiting list of some 9 months for funds in this area. It's our belief that with a consolidation and without the specific line item restraints imposed on each one of these, that we'll be able to benefit all of these special and very worthwhile groups in a more equitable fashion, and perhaps in a more timely fashion.

Mr. MITCHELL. My time has expired, obviously; I have a number of questions and I hope to get back to you in another round.

Mr. Smith, you're recognized for 5 minutes.

Mr. SMITH. Thank you, but I am anxious to hear what Mr. Gonzalez has to say.

Mr. MITCHELL. Mr. Gonzalez is recognized for 5 minutes.

Mr. GONZALEZ. I wish to join the chairman and thank the Acting Administrator for coming up at an early hour, and I really appreciate that. I realize also, that you are Acting Administrator, and the possibility is that somebody else will be nominated for the full time, regular position of Administrator, or has your name been submitted?

Mr. JONES. No, sir, to the best of my knowledge it has not been submitted. To the best of my knowledge, the gentleman who has been identified as the person to be nominated is about to be announced, and I am hopeful that there will be a permanent Administrator in the very near future, and that the Senate will be able to hold its hearings within the next several weeks.

Mr. GONZALEZ. The thing that I'd like to pursue a little bit is something that the chairman started on, and this is a matter of concern, also, in some of my other assignments. Did, for example, the Director of the Office of Management and Budget, confer with you—did you have an input, or were you summoned as the New York Times seems to indicate, and given a chance to present the viability of existing programs, their inefficiency or efficiency, as the case might be, the merits or demerits, and then on that basis, rather than a purely mathematical budgetary goal type of approach, told by the Office of Management and Budget, what it is you would have to accede to?

Mr. JONES. Mr. Gonzalez, Director Stockman testified on this very question before Chairman Weicker and the Senate Small Business Committee on Friday. I would not presume to speak for him, but since he has testified, perhaps I can try to provide somewhat more specific enlightenment.

In fact, we received from the Office of Management and Budget, specific information—on or about the 10th or 11th of February. We were given an opportunity to respond, and we did respond in writing, to Director Stockman, in a letter addressed to him dated February 14. We did comment and respond, specifically, to the guidance that we received.

Prior to that point in time we in the Agency had been following with a great deal of interest the general pronouncements in the newspaper. Of course we had maintained, at a staff level, appropriate working relationships between our budget staff and the OMB budget staff. The guidance that we received on or about the 11th was not entirely a surprise to us, although in a specific sense, we had not seen it as a package prior to that point in time. We did respond, and there were follow on conversations and consultations with OMB. The final advice and guidance that we got from the Office of Management and Budget, was not materially different from the original advice and guidance that we got.

They did take into consideration our response, and they did give us what I feel was a very ample opportunity to explain, to comment, and to clarify on our programs. We are confident that indeed, appropriate and sincere consideration was given to the full range of our comments.

Mr. GONZALEZ. Well, that's not exactly what I had in mind; maybe I shaped the question wrong. At no point have you indicated just whether or not there had been some, say, variance of opinion on a judgment evaluation basis on some decision having to do with the sufficiency and the adequacy of the goal, it's limitations, insofar as successfully administering a given program. In other words, it looks to me that we in the Congress are confronted with, regardless of the politics of the situation, is to rubber stamp the President's program because this is the only way you're going to beat inflation. This is the political mood generally, but that cannot enable us to evade our primary constitutional responsibility, which is to shape and form the national policy.

One of your criterion here in your statement is the confines of the range of financial limitations, even though programs are meritorious, but that is a judgment evaluation decision, that's a political decision, and what we in the Congress cannot escape is to not abdicate that responsibility; we cannot delegate it, and we must face it. And therefore, when you present informal terms as to what those practical limitations will be, we will have to evaluate them, if we are going to be responsible from the standpoint of sufficiency merit of the program, and then deciding the policy, the political question of how much can we afford.

Mr. MITCHELL. The gentleman's time has expired.

Mr. Jones, I guess you wanted to respond to Mr. Gonzalez' last query?

Mr. JONES. My only response, sir, would be to say to him that indeed, I cannot improve upon his statement with respect to the responsibilities of both the legislative branch and the responsibilities of the executive branch. He has stated it very eloquently and very well, and I certainly would not, in any way, quarrel with his statement as to the responsibility of the Congress.

I would, just by way of clarification, tell Mr. Gonzalez, that in our comments to OMB we did make a number of suggestions with respect to what we thought the impact might be, and our suggestions were taken into consideration, and OMB has given us the guidance that we've come forward with.

Mr. MITCHELL. Mr. Marriott, you're recognized for 5 minutes.

Mr. MARRIOTT. Thank you, Mr. Chairman.

Mr. Jones, I too, thank you for coming; it's good to see you again. I've been very disappointed that no representative of the Office of Management and Budget chose to appear before this committee. I guess no one's as eager as I am to hear about the OMB's position.

Unfortunately, the administration's failure to communicate has been common for this committee since the budget was proposed. Since the administration must realize that this committee and no committee ought to simply be a rubber stamp for administrative programs.

I'm very anxious to see if I can uncover exactly how this budget was arrived at, and how these cuts were arrived at, and exactly what the proposal of the administration is. We simply don't have any information, as far as I am concerned, that deal with the problem.

Now I can understand the administration being rather angry at us on this committee for not going along with every single cut, but

I'd prefer that anger, frankly, to a better working relationship in the future. I applaud the President for his pledge to give America a new beginning, but I think we need to have more information in order to make some value judgments.

Could I, Mr. Chairman, just ask a couple of questions in the time I have.

Could you explain to this committee exactly how these budget cuts were arrived at?

Mr. JONES. We received guidance from the Office of Management and Budget with respect to specific targeted budget cuts, Mr. Marriott, and that guidance was based upon the overall program of economic recovery. It was based upon the criteria that have been mentioned. For example, pertaining to rigorous standards on subsidy of interest rates, and so forth. It was based on these criteria, that across the board, in every agency these kinds of cuts would be necessary if we were going to effectively achieve this economic recovery. So we received specific guidance. We responded to that specific guidance. We had our day in court, and the guidance that we got back enabled us to come forward with the specific cuts that you see before you.

Mr. MARRIOTT. Did you review or analyze in any way how these cuts would affect the small business community?

Mr. JONES. Yes, sir.

Mr. MARRIOTT. How would it affect it?

Mr. JONES. Well, sir, we commented, and indeed Director Stockman commented last week, that it's recognized, for example, in the business lending program, that with a 25-percent reduction in the direct and guaranteed rates, over analyses indicated that possibly as many as 18,000 small businesses could be precluded from receiving financial assistance during fiscal years 1981 and 1982, and that a certain number of jobs might be affected by these reductions in our lending programs.

We made very rough cut analyses of the effects of increasing the proposal to increase the interest rates on loans. We, of course, looked at the question of the pollution control program, and we acknowledged that that program does have a revenue stream, and that it's a very valuable program. But again because we are involved in this credit market area, and because there's an objective to reduce the Government's overall involvement in credit markets, this was a program where cuts were thought to be appropriate.

With respect to the disaster lending, sir, it was a question of priority. We recognize that we are only going to have about \$2 billion for this year. We said to ourselves, look, we happen to feel that people who are affected by physical disasters, which includes the farm drought disasters, earthquakes, floods, fires, and so forth, are generally speaking, harder hit than nonphysical disaster applicants. As I have already stated in the women-in-business area the Small Business Development Center area, and the 7(j) call contracting area, we simply looked at it from the standpoint of where are the opportunities for us to participate in this outlay reduction? These are major outlay reductions, and they were very limited.

We said, for example, in addressing the question of impact with respect to Small Business Development Centers that within the management assistance program, this is really the only effective

opportunity we have to reduce outlays, but we do have ongoing programs. Indeed, we do have ongoing programs to maintain our ties with the academic community through the small business institute program. Of course, we have been maintaining the SCORE and ACE programs and the direct management assistance are still available through the SBA.

So, as I said sir, that these were very tough choices and reasonable men can differ, and I'd be the last not to acknowledge that.

Mr. MITCHELL. The gentleman's time has expired.

Mr. Bedell is recognized for 5 minutes.

Mr. BEDELL. Mr. Chairman, since I was late, I would like to pass at this time and reserve my time for later.

Mr. MITCHELL. Mr. LaFalce is recognized for 5 minutes.

Mr. LAFALCE. Thank you, Mr. Chairman.

Mr. Jones, when you said that SBA was given guidance, and further given specific guidance it reminds me of the guidance that must have been given to the German Jews during the Holocaust. Obviously, you took it. You are a career employee, are you not?

Mr. JONES. I am a career employee, yes, sir.

Mr. LAFALCE. And Mr. Norton, are you a career employee?

Mr. NORTON. Yes, sir.

Mr. LAFALCE. Mr. Carver, are you a career employee?

Mr. CARVER. Yes, sir.

Mr. LAFALCE. Mr. Chairman, I think that having career employees up here—I have the highest respect for their professionalism, I also have the highest respect for the loyalty which they must have, and exhibit toward their lawful superiors—makes this a virtual exercise in futility, and a waste of our time.

The President has proposed and it is now up to Congress to dispose. It's fairly obvious to me that there was little more time or attention given to the manner in which the Small Business Administration programs could participate in the general budget cutting that must take place, which I am willing to participate and cooperate in, then one would spend on selecting a birthday card for a distant relative. And so, Mr. Chairman, I will ask no questions, I am ready to fashion our own method of cooperation with President Reagan, rather than merely take his as handed down from on high from Mount Stockman. [Laughter.]

Mr. MITCHELL. The Chair will like to make one or two observations. A number of members requested that such a hearing take place; I had very strong misgivings about the efficacy of such hearings, simply because I just didn't feel that the Acting Administrator and his people would be able to be very responsive to us. In addition, as you know, Mr. Stockman was requested to be here, and he did not appear—sort of spurned us with contumacy, and those two observations should be a part of the record.

Mr. BEDELL. Would the Chair yield?

Mr. MITCHELL. Yes, the Chair will yield.

Mr. BEDELL. I think I should apologize to the chairman; I was one of those who asked that we have these hearings, and I certainly expected greater cooperation from the administration in bringing some of the policy people here, so we might know how these policy decisions were arrived at.

Mr. JONES. Mr. Chairman, might I add one remark?

Mr. MITCHELL. Yes.

Mr. JONES. Director Stockman responded very well—and again, I would not presume to speak for him, but he did, I think, quite accurately point out that given the timeframe involved with an inauguration and a change in administration, the Office of Management and Budget had to move very quickly, and every agency across the broad spectrum of the executive branch, had to move very quickly. I think I remember him stating that had OMB taken the time that is taken normally in nonelection years, to have the kind of interface that goes on between the Office of Management and Budget and the budget staff, and the respective agencies, we indeed, I mean the executive branch, would be in a better position to aid and assist the committee in meeting its deadline, and making its recommendations—in this case to the House Budget Committee.

There simply was the necessity to rework a budget of a previous administration. There simply was not available to the administration the same amount of time that would be available in other normal circumstances. This was acknowledged quite openly and quite frankly by Director Stockman, and I think it's a point that should not be lost sight of.

Mr. MITCHELL. Thank you for your statement. It just calls to mind an old adage: Haste makes waste.

Mr. Stanton?

Mr. STANTON. Thank you, Mr. Chairman.

Mr. Jones, I would like to ask the gentleman here about the points he made on page 5, at the top of your statement on how this relates to what small business, as you point out here, are liable to be interested in. I call attention to those four basic points: curbing inflation, access to credit at reasonable rates, reduction in taxes, and deregulation. Would you say that given your work in the Small Business Administration having those four points operating at great efficiency, would be a greater or lesser criteria and incentive for small business than the whole gross national product in the program?

Mr. JONES. I am not certain I understand your question, sir, but I would say in this response if we can achieve these four things, this is what small business in the country would like to have.

Now, the Small Business Administration, at any point in time, interfaces only with a very, very small number of the total small businesses in the country. In our direct loan program we only interface, in a year, with maybe 5,000 or 6,000 and in the guarantee loan program with only about 25,000 with a total of about 30,000 loans.

So, first of all, SBA has a constituency which is 12 to 16 million small businesses, but we are able to actually assist and aid, in the loan programs, only about perhaps 30,000 in any one year. What we're saying is, that all small businesses, all 12 or 16 million of them will benefit immensely if the President's objectives can be achieved. If those five objectives can be achieved, the specific interest of small business, likewise, we feel will follow.

Mr. STANTON. Will you say that as the rates on commercial lending, or in the private market increase that the manner of small business loans, or the amount of loans increases?

Mr. JONES. Mr. Carver, would you answer that please?

Mr. CARVER. I think the point the Congressman made is obviously with the direct loan rate of 9¼ percent that demand has created for those direct loans, tend to be very artificial.

Mr. STANTON. At the bottom of page 6 you made a point of saying: At present lower interest rates, our program is a sort of "lender of first resort." Lender of first resort, that is what I had reference to—and it should be a "lender of last resort" for those unable to get a bank loan. Are you interested to increase the effect of the larger loans?

Mr. JONES. Yes, sir. Right now, with a 9-percent interest rate on those direct loans, there are indeed many applicants who can afford to wait the year to 2 years that it may take, on the waiting list, to get the direct loan. They are perhaps less needy than others who really can't get a bank loan. What we are saying is that as the rates are brought up on the direct loans, that some of the people who currently apply for these direct loans, and have the discretion and the flexibility to wait those periods of time without undue impact on them, are going to find it just as easy to apply for a guaranteed loan.

Mr. STANTON. Does that mean you can double the amount of loan guarantees to what it was previously in the budget, and certainly find a ready market; is that correct?

Mr. JONES. Well, sir, I think that with the overall interest rates in the country the way they are now, that there indeed is a lid on that ready market, because small business people can't afford the monthly payments that are associated with the 18- and 20-percent interest rates. What the SBA is interested in, or the President is interested in, is a national program of economic recovery that is going to bring those interest rates down. As they are and the regular market rates are brought down, this of course will also have an impact on the rate of money that the Treasury has to charge. The cost of money to the Treasury, which is the amount that we are purporting to charge for disaster loans.

So, yes, there is a limit on it. There is not an inexhaustible demand for guaranteed loans because people can't afford the monthly rates.

Mr. MITCHELL. The gentleman's time has expired. Mr. Smith, you passed on the first go-around.

Mr. SMITH. Mr. Jones, you just testified that 18,000 small businesses would not get SBA loans; you also are implementing a bank certification program, and you issued an order, as I understand it, that gives priority on guaranteed loan applications to those loans that come through these banks that are certified. Those banks that are certified generally are the big city banks almost entirely, aren't they, a little over 300 of them?

Mr. JONES. Mr. Smith, I personally do not have direct knowledge of that. I do know that there are some involved that are smaller banks, to the best of my knowledge your statement may be correct, but I would like to check it. It certainly is true that many of those banks are the larger banks.

Mr. SMITH. So the net effect of it is, those that are going to be excluded from these SBA guaranteed loans are the ones that don't have access to big city banks, and when you reduce by 25 percent

the availability of the loans, and then exclude 18,000 businesses, I just point that almost entirely that burden to pay the higher interest rates of non-governmental loans falls on those who don't happen to have access to those banks. That's another thing that makes it unfair to have that kind of a reduction in this program, which doesn't cost very much, incidentally. It doesn't cost \$1 billion, it's just the guarantee we're talking about.

And the other thing, I asked you on Tuesday—you based this budget on eliminating the eligibility of credit worthy borrowers for any type of disaster loan assistance, and as you know the House voted against doing that 2 or 3 times, or about 400 to 10, or something like that, so I don't think it's going to be done. Can you do that without changing the authorization legislation?

Mr. JONES. I'd like to have our counsel respond to that, sir.

Mr. NORTON. We have taken a look at the language of the Disaster Act, and it is our view that it can be read to permit the elimination of the credit elsewhere test.

Mr. SMITH. How do you do that? Tell me that?

Mr. NORTON. Well, the statute is phrased in terms that the agency may make loans without regard to the availability of credit elsewhere. The way in which we have traditionally interpreted it is that the "may" refers to the ability to make loans, and did not continue through the rest of the sentence to the credit elsewhere.

Mr. SMITH. Well, that seems like an extreme interpretation to me. I wish you would submit a legal brief to the committee, on that, so that we would have an opportunity to—

Mr. BEDELL. Would the gentleman yield on that?

Mr. SMITH. Yes.

Mr. BEDELL. We keep going to the different agencies of Government, and they tell us that the record that they find in the history of the legislation, directs what should be done. I would think that the legislative history very, very clearly show that it was the intent of the Congress that there should be a credit elsewhere test. Do you feel that your agency does not need to consider the history of what is shown according to the actions here in the Congress in passing that legislation?

Mr. NORTON. I couldn't, as a lawyer, answer that.

Mr. BEDELL. Well, I think you've got something backwards here. The credit elsewhere test they are going to apply is on ones that's very clearly said there would not be a credit elsewhere test on, that's homeowners up to \$55,000; small businesses up to \$500,000, it's on the lower end, and they are trying to apply that all the way across the board now, and the legislation, as you indicated, is very clear on who gets credit elsewhere and who doesn't.

Mr. MITCHELL. May I interrupt for just a moment? I am in a little shock, counsel, as a result of interpretation, as is Mr. Smith, and other members of the committee. We've hashed this over for many, many years, and it's very, very clear to us that the Small Business Administration does not, does not have the authority to apply a credit elsewhere test to determine eligibility; the purpose of applying the test is solely to determine the interest rate, not to determine eligibility, so we'll wait for your legal brief, and we'll hassle it out.

[Material referred to above follows:]

Section 5(b)(6) of the Small Business Act authorizes the Administrator to make such rules and regulations as he deems necessary to carry out the authority vested in him by or pursuant to the Small Business Act. In addition, Section 5(b)(7) of the Small Business Act authorizes the Administrator in relevant part to "... take any and all actions ... determined by him to be necessary or desirable in making ... loans made under the provisions of this Act." This provision is broad and the phrase "necessary or desirable" would authorize these changes made in the regulations, provided that such changes do not violate other provisions of the Act or other relevant statutes. Moreover, both Sections 7(b)(1) and 7(b)(2) authorize the Administration "to make such loans ... as the Administration may determine to be necessary and appropriate ..."

We rely on an opinion issued by the Department of Justice on March 17, 1981 (attached) which stated that SBA does, in fact, have authority to promulgate a regulation precluding assistance to applicants able to obtain credit elsewhere.

U.S. DEPARTMENT OF JUSTICE,
Washington, D.C., March 17, 1981.

Memorandum for Michael Horowitz, Special Counsel to the Director, Office of Management and Budget.

Re: Three questions concerning proposed amendment to regulations governing SBA disaster loan program.

You have requested the views of this Office concerning three legal questions presented by a proposed amendment to regulations that govern the disaster loan program administered by the Small Business Administration (SBA). See 13 CFR § 123. This amendment will be published as a final rule and will take effect April 1, 1981, unless modified or withdrawn.¹

The questions are as follows: (1) In determining the amount, if any, to be loaned to an applicant who has suffered a "physical loss" within the meaning of the relevant regulations, does the SBA have statutory authority to take into account the private financial resources of the applicant and the availability of private credit?

(2) Does the SBA have authority to loan the applicant less than 100 percent of the amount of the physical loss or economic injury he has sustained?

(3) If the SBA does have authority to loan less than 100 percent of the amount of the relevant loss, does it have authority to impose different loan ceilings for different classes of applicants, e.g., homeowners as opposed to small businesses?

For the reasons given below, we think that the SBA has authority to accomplish the results contemplated by these questions.

I. PRIVATE RESOURCES AND CREDIT

When a loan is made to a small business for the purpose of providing relief for "economic injury" caused by natural or physical disaster, the existing regulations already provide that the "personal and/or business assets" of the applicant "must be used by the applicant to the greatest extent feasible, without undue hardship, to alleviate the injury incurred." 13 CFR § 123.3(b). The regulations also provide that "private credit to the extent obtainable at reasonable rates and terms must be used prior to obtaining disaster loan assistance from SBA." *Id.* In its present form the proposed amendment would insert similar, but not identical, language into those portions of the existing regulations that govern "physical-loss" loans—i.e., loans made to homeowners and small businesses that wish to repair or replace physical property damaged or lost by disaster. The amendment provides that in the case of businesses, physical-loss loans "shall be made to the extent that the required financial assistance is not otherwise available from private sources, including private credit at reasonable rates and terms." In other words, the amendment would appear to place "physical-loss" loans for businesses on much the same footing as "economic injury" loans for businesses. The question you have asked is whether the amendment is within the scope of the SBA's authority.

The relevant statutory provisions, all of which derive from the Disaster Relief Act of 1969, as amended, are set forth in 15 U.S.C. §§ 636(b)(1), 636(b)(2) & 636a(a)(2). These provisions give the SBA authority to make "such loans" as the SBA "may determine to be necessary and appropriate" to provide relief for disaster victims. See 15 U.S.C. §§ 636(b)(1) & (2). They contemplate that loans may be given to provide relief against property loss and physical damage, as well as "economic injury." See

¹ Invoking the relevant exemptions to the notice and comment provisions of the Administrative Procedure Act, see 5 U.S.C. §§ 553(a)(2), 553(b)(B), the SBA has made no provision for public comment concerning the amendment.

15 U.S.C. §§ 636(b)(2), 636a. In the case of "physical-loss" loans, the statute provides that if the proceeds of a given loan are to be used for the "repair, rehabilitation, or replacement of property," the SBA "may grant any loans . . . without regard to whether the required financial assistance is available from private sources." See § 636(a)(2).

There is nothing in this language that purports to bar the SBA from considering either the financial resources of the applicant or the availability of private credit in determining whether, or to what extent, a given loan application shall be granted or denied. It is true that if the applicant proposes to use the proceeds to repair or replace property, the statute expressly authorizes the SBA to grant the application without considering whether "financial assistance" is available to the applicant from "private sources," see 15 U.S.C. § 636a(a)(2); but on its face this provision merely enlarges or confirms the discretion of the agency. It does not purport to limit the discretion that the agency would otherwise have under 15 U.S.C. § 636(b). The agency has discretion under that provision to make only such loans as the agency deems "necessary" or "appropriate." Section 636a(a)(2) merely affirms that this discretion "may" be exercised to permit physical-loss loans without regard to private alternatives.

The relevant legislative history supports this reading of the statute. It is clear, in our view, that Congress wanted the SBA to have authority to make "physical-loss" loans without regard to the availability of private alternatives if the agency found it necessary and appropriate to extend credit on that basis; but we find no indication that Congress intended to require the agency to ignore private alternatives in any and every case. See e.g., S. Rep. No. 1157, 91st Cong., 2d Sess. 29 (1970) (under relevant language SBA "could" make loans without regard to availability of assistance from private sources). In other words, with respect to loans designed to assist in the repair or replacement of property, we think it clear both from the language and from the history of the statute that Congress wanted the SBA to have discretion either to consider or to disregard the availability of "financial assistance" from "private sources," as the agency found it "necessary" or "appropriate" to do so in the dispensation of disaster relief.

In our opinion, the SBA's proposed decision to take "private sources" into account in considering applications for physical-loss loans is well within the agency's discretion under the circumstances. The purpose of the change and of the other changes discussed below is to limit either the amount or the availability of disaster loans in a way that will bring the loan program into compliance with the budget constraints imposed by the Anti-Deficiency Act and the recent apportionment directive issued by OMB. To be sure, without an amendment of the existing regulations, a collision between the program and budget could be avoided simply by halting the program whenever apportioned funds were no longer available in a given quarter; but the agency could well determine, in our view, that it would be wiser and more in keeping with the congressional purpose to deal with the problem by tightening the loan criteria, limiting the available funds to a more needy class of applicants, and distributing the funds within that class on a more discriminating basis. In particular, given the constraints of the budget and the competing claims to these scarce resources, the agency could well determine that a physical-loss loan to a small business is necessary or appropriate only to the extent that adequate private resources are not available to finance the replacement or repair.

II. LOANS FOR LESS THAN THE AMOUNT OF THE LOSS

The proposed amendment, in its present form, would impose a 60 percent ceiling on all disaster loans made to small businesses. You have asked whether the SBA has authority under the statute to lend an applicant less than the total amount of the loss the applicant has sustained and to follow such a policy categorically with regard to all applications in a given class.

We have found nothing in the language of the statute or its legislative history that addresses the general question of the relation between the amount to be loaned to a given applicant for disaster relief and the amount of the loss that that applicant has sustained. We note, however, that it is a traditional part of a lender's function to determine how much credit shall be extended to a borrower in a given case, taking into account, among other things, the borrower's need, the amount of money that is available for loan purposes, and the urgency of the competing claims against those funds. Indeed, even in the context of a remedial government program designed to provide assistance to disaster victims, it would be notable and surprising to find in the relevant statute a positive requirement that would obligate the Government to cover 100 percent of the loss sustained by a given applicant, notwith-

standing the scarcity of the funds available for loan purposes and the present or future claims of other victims. No such requirement is expressly set out in the statute in question here, and we do not think that such a requirement is implicit in the words that confer the basic lending authority. The SBA is authorized to make such loans, and only such loans, as it deems "necessary" or "appropriate" in the circumstances. The scope of the discretion created by that language is broad indeed. See *Monter v. United States*, 440 F. Supp. 44 (M.D. Pa. 1977), aff'd, 586 F. 2d 835 (3d Cir. 1978) (construing similar language governing SBA refinancing authority). In our view, that language permits the agency, in the exercise of discretion, to limit the amount of a given loan or category of loans in order to ration the available funds, the better to provide for all the claims that may be made against them.

III. DISCRIMINATION BETWEEN HOMEOWNERS AND SMALL BUSINESSES

Under the amendment the 60 percent ceiling on disaster loans would not apply to homeowners who seek physical-loss loans for the purpose of repairing or replacing their homes. It would, as we have indicated, apply to small businesses that seek physical-loss loans or economic injury loans for business purposes. You have asked whether this discrimination between two classes of applicants—homeowners and small businesses—is permissible.

This is both a statutory and a constitutional question. From a statutory standpoint, the relevant statutory language does not discriminate between these two classes with regard to the making of physical-loss loans. Indeed, it does not identify disaster victims by class. It simply authorizes the SBA to make such loans as it "may determine to be necessary or appropriate because of floods, riots or civil disorders, or other catastrophes." 15 U.S.C. § 636(b)(1). At the same time, this language does not on its face require the agency to treat all classes of loan applicants alike, and we have found nothing in the legislative history that suggests that such a requirement is implicit in the general grant of lending authority. In our view, therefore, the question of discrimination among classes of applicants stands upon essentially the same statutory footing as almost any question that would be presented by the adoption of a loan criterion not expressly set out in the statute. Does adoption of the criterion represent a reasonable assertion of the agency's authority to make only such loans as the agency deems "necessary" or "appropriate" to achieve the purposes of the statute?

We do not believe that a decision to apply the 60 percent ceiling to businesses and not to homeowners would be regarded as an abuse of discretion or otherwise inconsistent with the agency's statutory authority to determine what loans are "necessary" or "appropriate." Cf. *Monter v. United States*, supra. Indeed, the purpose of the statute is to relieve the hardship that results from natural and physical disasters; and in our view, the agency could well determine, in the exercise of its sound discretion, that hardship does not fall equally upon all classes of victims. Accordingly, if budget constraints were to require some curtailment of relief, the agency could well determine that to achieve the purposes of the statute the curtailment should be least where the hardship is greatest. Such a determination, as we understand it, would serve as the basis of the distinction drawn in the amendment. The agency could determine that as a class, persons who have lost their homes in disaster suffer greater hardship than persons who have lost business property only. We think that such a determination would be well within the agency's discretion under the statute.

The constitutional question is whether this authorized administrative distinction between homeowners and small businesses is consistent with the concepts of equal protection that are part of the Fifth Amendment guarantee against deprivation of life, liberty, or property without due process of law. Even if we were to assume that a protected liberty or property interest is at stake here, we would conclude that the distinction is constitutionally permissible if it were rational and if it advanced some permissible governmental purpose. See generally *Dandridge v. Williams*, 397 U.S. 471 (1970). In our view, the distinction clearly meets that test. Given the scarcity of the resources available to the Government, Congress itself is free to establish a program that provides homeowners with more relief than businesses. The SBA, if it is authorized to do so, is free to do the same.

LARRY L. SIMMS,
Acting Assistant Attorney General,
Office of Legal Counsel.

Mr. JONES. I think Mr. Smith has pointed out a very legitimate concern that he has. I've been handed a note I'd like to acknowl-

edge. If I understand it, the priority in the bank certification loan program deals with processing time only, and our staff does, indeed, recognize the problem recognized by Mr. Smith. We are working on the necessary evaluation so that we can handle this problem, so that the funds will remain available to the smaller nonbank certification program banks on an equitable basis.

Mr. MITCHELL. Mr. Weber.

Mr. WEBER. How many firms does the administration make loans to in a given year?

Mr. JONES. I understand that in the direct loan program—

Mr. WEBER. Guaranteed program?

Mr. JONES. Guaranteed program is about 25,000 and direct is about 5,000 to 6,000. Am I right, Mr. Carver?

Mr. CARVER. Yes.

Mr. WEBER. What percentage of all small business firms is that?

Mr. JONES. Well, sir, I don't have my calculator with me, but there are 12 to 16 million small business firms in the country; it's a very small percentage.

Mr. WEBER. Has the SBA ever done an analysis of what types of firms are the primary beneficiaries of SBA loans, and particularly what size?

Mr. JONES. I'm sure we have, sir, but I don't have that with me.

Mr. WEBER. Would you make that available to me?

Mr. JONES. If we've got it, sir, we'd be happy to.

Mr. WEBER. The point I'm getting at is that I'm very much in agreement with your statement, and appreciate it, and I think the point that I would make is that when we consider the entire credit budget of the Government, credit being a finite commodity, if you will, the loans that the SBA makes, are dollars that are not loaned to someone else, and I want to know who we are penalizing? Obviously we are giving preferential treatment to someone, because somebody else doesn't get a loan, and I'd like to have some kind of an analysis as to who is beneficiary.

[No response.]

Mr. WEBER. Is there any information you have readily available as to what kind of business benefit; what kind of small businesses do not benefit?

Mr. JONES. I do not have that at my fingertips, sir.

Mr. WEBER. I'd appreciate it if you can make that available to me.

Mr. JONES. Yes, sir.

[Material requested follows:]

The latest tabulations of SBA business loans by type of firm and employment size of firm are for fiscal year 1978. This employment size distribution of the 31,727 borrowers in that fiscal year are shown in the attached Report 13. The classification of these borrowers by major divisions of industry is given in report 17.

REPORT 13 FISCAL YEAR OF APPROVAL - 1978
BY NEW/EXISTING BUSINESS

LOAN STUDY AS OF SEPTEMBER 30 1978

PAGE 1

DOLLARS IN THOUSANDS									
DIRECT		INDIRECT		TOTAL		GUARANTEE		TOTAL	
NUMBER	% GROSS	NUMBER	% GROSS	NUMBER	% GROSS	NUMBER	% GROSS	NUMBER	% GROSS
BUSINESS E EMPLOYEES UCI - 003									
004 - 007	2173	74660	40	2559	1662	5918	187255	8131	826
008 - 010	874	46629	35	2402	1763	4304	48423	4508	014
011 - 013	540	45204	24	3723	2662	4287	52187	4623	015
014 - 016	243	11253	16	2763	2069	2358	45363	4717	016
017 - 019	84	11712	12	2522	1637	688	13513	2177	017
020 - 022	65	10570	1	48	36	481	8237	177	018
023 - 025	6	1895	1	50	37	27	10588	36	019
026 - 028	3	548	0	0	0	1	120	1	020
029 - 031	0	0	0	0	0	13	1694	13	021
OVER 500	0	0	0	0	0	0	0	0	022
TOTAL	4070	226493	126	14048	10065	17862	2221013	1917055	22558
BUSINESS N EMPLOYEES									
001 - 003	1470	41776	11	2551	1659	4664	134374	278462	6145
004 - 007	276	11944	5	644	513	1531	12662	18456	1812
008 - 010	111	7768	6	444	375	909	187222	134562	1026
011 - 013	44	7292	0	0	0	480	95841	83743	484
014 - 016	6	622	1	562	421	97	2940	26147	164
017 - 019	4	769	0	0	0	27	7118	61465	21
020 - 022	0	0	0	0	0	1	535	520	1
023 - 025	0	0	0	0	0	1	210	189	1
026 - 028	0	0	0	0	0	9	566	663	13
OVER 500	8	44	0	0	0	0	0	0	0
TOTAL	1915	80175	43	6642	3369	7699	748151	640540	9657
BUSINESS Y EMPLOYEES									
001 - 003	2	60	0	0	0	1	246	24	3
004 - 007	1	25	0	0	0	3	419	177	9
008 - 010	0	0	0	0	0	1	3	65	1
011 - 013	0	0	0	0	0	0	0	0	0
014 - 016	0	0	0	0	0	2	1103	603	2
017 - 019	0	0	0	0	0	0	0	0	0
020 - 022	0	0	0	0	0	0	0	0	0
023 - 025	0	0	0	0	0	0	0	0	0
026 - 028	0	0	0	0	0	0	0	0	0
OVER 500	0	0	0	0	0	0	0	0	0
TOTAL	3	85	0	0	0	9	1745	1276	12
TOTAL									
NUMBER OF EMPLOYEES	6		0			150			156
TOTAL	5998	504743	169	18691	13435	25570	2970941	2578872	51727
NUMBER OF EMPLOYEES	52314		2710			363216			363216

REPORT 17 FISCAL YEAR OF APPROVAL - 1978
 PV SIC
 LOAN STUDY AS OF SEPTEMBER 30, 1978
 DOLLARS IN THOUSANDS
 PAGE 1

	---DIRECT--- NUMBER & GROSS	---I/F--- NUMBER & GROSS	---GUARANTEE--- NUMBER & GROSS	---TOTAL--- NUMBER & GROSS	---S-D-A--- S-D-A
AGRICULTURE	178 8061	11 514	1271 16116	1469 16927	1469 16927
MINING	9 777	3 2	134 4552	146 5331	146 5331
CONSTRUCTION	346 16120	4 40	1421 146178	1771 162382	1771 162382
MANUFACTURING	654 47628	21 3416	3757 633273	4432 744416	4432 744416
TRANSPORTATION	211 11359	6 426	744 51662	956 63447	956 63447
WHOLESALE TRADE	358 46955	15 236	2623 360668	3236 409859	3236 409859
RETAIL TRADE	2612 119257	72 7723	10526 1009748	13210 1129727	13210 1129727
FINANCE	40 4554	1 200	134 14214	174 14868	174 14868
SECURITIES	144 71274	41 2722	4520 502962	4705 576958	4705 576958
OTHER	7 365	3 0	20 1464	27 1869	27 1869
TOTAL	548 166743	169 15591	25570 2970601	31727 3152456	31727 3152456

Mr. MITCHELL. Mr. Nowak.

Mr. NOWAK. Thank you very much, Mr. Chairman. Let me just ask a couple of very brief questions, Mr. Jones. During your negotiations with OMB, was their suggestion that a fixed amount of percentage be looked at as a reduction, and then were you given the discretion to find that kind of reduction within your budget? Is that how, in general terms anyway, these cuts were arrived at?

Mr. JONES. No, sir. The guidance we got was a 25-percent reduction in loan programs.

Mr. NOWAK. That was just flatly requested, a 25-percent reduction, and then you went ahead with that reduction?

Mr. JONES. Yes, sir.

Mr. NOWAK. Was there any discussion or any conversation with OMB, when you were going over the cuts, was there any linkage or thought given to other budgets that are being reduced? Specifically, I am thinking about something like the agencies which do similar work in the economic development area, the EDA agencies, or were you out pretty much by yourself, and it was just your discussion with OMB without any overlapping?

Mr. JONES. We were not present, to the best of my knowledge, at any discussions at OMB, when representatives from EDA were also present. We were however, well aware from reading the newspaper that EDA was one agency where cuts were targeted.

Mr. NOWAK. But that wasn't a part of your direct discussions with OMB regarding your budget?

Mr. JONES. No, sir. Our budget discussions were limited to our agency alone.

Mr. NOWAK. Was there any input from the small business groups that have lobbied on these kinds of issues in the past?

Mr. JONES. Sir, I don't know what input they may have had with respect to direct contact to the Office of Management and Budget. They certainly had no direct contact with us, because we were not at liberty to discuss the ongoing budget considerations with any outside interest groups, or associations.

Mr. NOWAK. You say, you weren't at liberty to discuss—is that the request by OMB?

Mr. JONES. No, sir, these discussions were entirely a matter of executive privilege, within the executive branch. We certainly had no discussions with any of the trade associations or any groups like the NFIB.

Mr. NOWAK. In another statement that was submitted for the record, the Utah Council of Small Business mentions that there are two priorities in their estimation, the Office of Advocacy and the development of a data base. I wonder if you could tell me how your budget affects, first of all, the Office of Advocacy, and how the budget strengthens the office and allows it to remain independent?

Mr. JONES. Sir, the budget cuts have no impact on the Office of Advocacy, other than a modest reduction in our salaries and expenses, and a modest reduction in the staff. There will be, of course, pressures across the broad spectrum of all the staff organizations within SBA.

However, in the advocacy area, a large majority of that organization is staffed by people under the public law authority, rather than the regular civil service appointing and hiring authority.

In the data base area, are you refering to the external data base, sir, the data base that the Office of Advocacy is working on?

Mr. NOWAK. Yes.

Mr. JONES. The budget cuts do not affect that, to the best of my knowledge. Am I right, Mr. Carver?

Mr. CARVER. Yes, sir.

Mr. NOWAK. Thank you, Mr. Chairman.

Mr. MITCHELL. Mr. Daub is recognized for 5 minutes.

Mr. DAUB. Thank you very much. You know, sometimes the size of a funeral for someone who's done a lot of work in his or her lifetime is not often determined by all that good, and all the eulogizing of the credentials of the deceased person, but sometimes the size of that funeral is determined by the weather, and it seems to me that just because Director Stockman is not here, that that does not necessarily mean that we are presiding today over a funeral for small business. In fact, I am more impressed by the fact that you are here today, sir, to give us some of the detail, from a career point of view, because you deal with these programs on a day-to-day basis.

I thought your statement was well done. I would like to ask you if you think small business men and women with whom you deal, expect that the answer to economic recovery, from their selfish point of view, is more money in these programs?

Mr. JONES. Sir, I can only give you my own personal feeling on that. I get calls from small business persons, particularly in the Washington, D.C. metropolitan area, but also others, and what I detect is that they—first of all, most of that large majority never even interfaced with SBA, because as I stated earlier, we only make loans to about a total of about 30,000 in any one year.

They are interested and primarily concerned about runaway inflation, taxes, and regulation, and they want to see measureable timely response by this administration of those problems.

Mr. DAUB. Then—and I want to preface this by saying that I have been a member of the small business council; we have 1,000 members in Omaha, Nebr. We have a small business development center at our university in Omaha, Nebr., as you well know.

Mr. JONES. Yes, sir.

Mr. DAUB. I have asked, many small business persons in my district, how they feel about arguably, a 25-percent reduction in expenditures of funding for small business through the Small Business Administration, and they say—and I'd like you to know this—that's the least we feel we can do, for economic recovery. I would feel that your remarks today, and your presence here, indicates a very responsible position on the part of the administration, and your department, and I thank you for taking your time to be here.

Mr. JONES. Thank you very much.

Mr. MITCHELL. Mr. Ireland?

Mr. IRELAND. Thank you, Mr. Chairman. I'd like to go on record, Mr. Jones, in support of your statement. I think you've done a good job of handling a difficult situation. And go in support of the fact that the overall goals, I believe, of small business are better served by getting our overall national budget under control, than are injured by what I consider reasonableness of cuts in this budget.

I would like to put an opinion, on the record, concerning the dialog on the loan certification program, with the gentleman—who is no longer here—from Iowa, that having been a banker for many years, at least in the State of Florida, I can say, for the record, that it is not necessarily all big banks that are in the certification program. If anything, it's the smaller banks that are in the certification program. But that's neither here nor there, as I would point out, in fairness to the big bank. The big bank doesn't necessarily lend to only big customers; and I think that's a trap that many people fall into in their thinking, and there are many fine big banks in this country that have pioneered lending to small businesses, and there are an awful lot of small businesses in big cities.

And I'd just like to have that view out there on the record.

I would also like to support the report that you gave concerning the Office of Advocacy. So many of these programs, as you've outlined, touch less than 2 percent of small businesses in America. The Office of Advocacy, as it does its job, helps everybody, because it helps in those areas of regulation, and everything else, and certainly deserves the support of everyone in small business, in my opinion.

One last point, and perhaps a question, we sail merrily through these loan programs, and discussions of them, but nowhere in the presentation of the budget have we seen any description of how many of these loans are in default; what amount of money is not collected by the SBA? Certainly, the SBA is not the only lending organization of the Federal Government that has a lousy record, as far as collecting loans. What kind of figures can you give us, for the record, now, or later, as to where that stands?

Mr. JONES. I do have some figures, Mr. Ireland. Mr. Carver will respond to that, and we can respond in summary fashion here, and also supply some figures for the record.

Mr. IRELAND. Yes. Mr. Carver, would you please?

Mr. CARVER. As of the end of January, approximately 8½ percent of the existing loans serviced by SBA were 60 days or more delinquent.

Mr. BEDELL. Will the gentleman yield?

Mr. IRELAND. Yes.

Mr. BEDELL. Did you break that out as to which of those are direct loans, and which are guaranteed loans?

Mr. CARVER. I'm talking now, sir, of the direct loans.

Mr. IRELAND. What about guaranteed loans?

Mr. CARVER. Those the banks service, about 4 to 4½ percent, 60 days or more.

Mr. IRELAND. Could you give us a figure during the last fiscal year, how much in dollar amount was actually charged off, as deemed totally uncollectable?

Mr. CARVER. No, sir, I don't have that available; I'll be glad to supply it for the record.

[Information requested follows:]

SMALL BUSINESS ADMINISTRATION LOANS CHARGED OFF, SEPT. 30, 1980

[Dollars in millions]

Program	Amount	Percent
7(a) Business loans:		
Direct.....	\$131.5	7.34
Guaranty.....	588.3	3.69
7(i) Economic opportunity loans:		
Direct.....	168.1	24.47
Guaranty.....	60.5	17.42
7(h) Handicapped assistance loans:		
Direct.....	3.7	4.51
Guaranty.....	0.1	1.90
7(l) Energy loans: ¹		
Development company loans:		
Direct.....	34.1	6.54
Guaranty.....	8.0	4.49
Disaster loans: direct.....	116.3	1.41
Displaced business loans: direct.....	8.7	2.56

¹ Insufficient historical data precludes determination of loss rates under this program.

Mr. BEDELL. Would the gentleman yield?

Mr. IRELAND. Yes.

Mr. BEDELL. Could you have that, also, separated according to the direct loans and the guaranteed loans?

Mr. CARVER. Yes, sir.

Mr. BEDELL. Would the gentleman yield?

Mr. IRELAND. Yes. Is it correct that on the direct business loans 7(a), that 35 percent of those loans are in default, and is it also true that under the economic opportunity direct loans that 50 percent of those loans are in default?

Mr. CARVER. No, sir, that's a little high. I think it's a problem in terms of definition. The figures that I'd given were basically those loans that were 60 days or more delinquent, not necessarily—

Mr. IRELAND. Perhaps you could submit that—I think that's a valid question—you could submit that to us by category.

Mr. CARVER. Yes, sir.

Mr. IRELAND. As my time that's remaining is very small, I'd like to, again, reiterate that I think you all are on the right track, and I appreciate it.

Mr. JONES. Thank you.

Mr. BEDELL. Mr. Chairman?

Mr. MITCHELL. Yes, Mr. Bedell.

Mr. BEDELL. When could we have that information, because we are meeting to make some decisions here, very quickly?

Mr. JONES. We'll get it to you, sir, as soon as we can.

Mr. BEDELL. That was not my question.

Mr. JONES. I would assume this afternoon.

Mr. BEDELL. Thank you.

Mr. MITCHELL. And, let's make sure we get you to make a distinction between loans that are delinquent, and loans that are in default, because it may well be that some delinquent loans will eventually be repaid.

Mr. JONES. Yes, sir, absolutely.

Mr. MITCHELL. Mr. Weber of Ohio.

Mr. WEBER. Thank you, sir.

Mr. Jones, I welcome your appearance here at this meeting today, and I'd like to continue along the same line of questioning that was introduced by Congressman Stanton, Congressman Weber from Minnesota, Congressman Daub, and Congressman Ireland, we are talking, it seems to me, about how this program of the SBA fits into the larger program of economic recovery. What's good for the Nation, what's good for the small business community, and what will be the level of business activity in the small business community, as a result of this program, and although some businesses are going to be unable, apparently, to benefit from SBA programs, at the reduced level of this budget, what will be the effect on the remaining 12 to 16 million small businesses in the Nation? And I assume that you are making the judgment that the effect on the remaining 12 to 16 million businesses in this country, is going to be a very healthy effect, is that right?

Mr. JONES. Sir, if the SBA's contribution to the overall economic recovery program, and the contribution of all of the rest of the agencies, and the executive branch, most particularly, in terms of the reduction in outlays and direct Federal spending, if indeed these projections can be carried out, and if we can have the companion reduction in taxes, and the companion reduction in the excessive regulation, then I think, inescapably, the very beneficial results that will accrue to small business, to individual citizens, to all sectors of society, will indeed evolve. But obviously, it is going to take time. It is not something that is done in one fiscal year. That is why I believe that the President, in his message, has stressed a plan that shows a time period of 1981 through 1986.

Mr. WEBER. Now, did I hear you say that approximately, 18,000 small businesses otherwise eligible, would not be able to get loans under the reduced budget levels that have been recommended?

Mr. JONES. What I stated, sir, is that it was in a preliminary analysis that we did, that up to 18,000 small businesses might be precluded from receiving financial assistance during fiscal years 1981 and 1982, and that's kind of an outside figure, and it could be considerably less than that.

Mr. WEBER. By, might be precluded, that means that if we have gone with the President's recommendation, those 18,000 businesses probably would have been granted loans?

Mr. JONES. Well, if we are talking about both the direct and guaranteed loan programs, of course most of these businesses would fall into the guaranteed area, because that's where most of the loans that we participate with are involved, some 25,000 as opposed to only—

Mr. WEBER. But I think the idea is that, but for these reductions, you'd expect about 18,000 other businesses would have been helped?

Mr. JONES. Yes, sir, within the context of that kind of a guess, yes.

Mr. WEBER. How many loans are going to be granted, would you estimate, under the recommended levels which the President is recommending?

Mr. JONES. Mr. Carver?

Mr. CARVER. Approximately 30,000.

Mr. WEBER. So you'll still be making 30,000 loans under this program. Now, will consolidation of these various loan programs eliminate the loan programs for the handicapped, minorities, women, and energy, for example?

Mr. JONES. No, sir, it will not.

Mr. WEBER. Then what is the reason for the consolidation?

Mr. JONES. There's a feeling that we have—just too many interest rates; too many different types of programs—that we need flexibility. As I stated earlier, one of the things we looked at is in the handicap area, where there's now, at least a 9-month waiting list, in most areas, for handicap loans. We feel that with the consolidation we're going to be able to respond more flexibly to these very special needs, by consolidating the programs into one program, with simpler structure, and with one interest rate.

Mr. WEBER. But you said that the handicapped, minorities, the women, will still be eligible for these loans under the program?

Mr. JONES. Yes, sir. We are not eliminating any of them.

Mr. WEBER. At the same levels?

Mr. JONES. Approximately the same; within the overall reduction of the 25-percent reduction.

Mr. MITCHELL The gentleman's time has expired.

Mr. Dorgan?

Mr. DORGAN. Thank you, Mr. Chairman. Mr. Jones, I think all of us agree that we need an economic recovery program, and all of us support some kind of Federal spending cuts. When I heard President Reagan's campaign last fall, I understood that he was talking about excesses and extravagance, and waste, and it seems to me that he was going to come to Government, and make a distinction between that which works and that which wastes, and get rid of that which wastes. Is it your professional judgment that in the budget for the SBA, we are getting rid of that which wastes? Has there been a distinction made between those programs that are working and those that are wasting, and trimming back those that are wasting?

Mr. JONES. No, sir. Absolutely not. Forgive the firmness of my response, sir. We are not eliminating wasteful programs; we are not reducing wasteful programs, or programs that are not meritorious. Indeed, I'll like to be very clear, that at least in my judgment, the programs that are affected, everyone of them, are meritorious. Everyone of them are programs that we attempt to administer as efficiently as possible. I would not sit here and tell you, sir, that in any one of these programs you might not be able to come up with a specific case or cases, where judgments were made, that perhaps in hindsight, were not judgments that should have been made. I will say to you, sir, that we have not been addressing this budget, and these proposals—we are not saying to you that these reductions are in areas where the programs have been wasteful, or where there's been inefficiency or mismanagement. We feel that these are fine programs; that they have a high degree of merit, and that it simply is part of the overall—

Mr. DORGAN. Mr. Jones, that's the point I am trying to make. It seems to me that rather than guidance what you received is orders from the Office of Management and Budget without an analysis of the efficiency of the respective programs, despite the fact that you

may say, none of the programs represent waste. The fact is, that the programs have various kinds of values to the small business community; it appears what we have is an across-the-board cut, without judgments—what's the respective merits of the various programs?

But to go on from there, I think that we have in this Government a subsidy program for big business housed in the office of a tax code, in the form of tax expenditures. There are no cuts proposed in the area of expenditures, and the preponderance of the tax expenditures in our tax codes goes to the big corporations. If you're really talking about sacrifice, and really talking about cutting across the board, in your opinion, as an advocate of small business, working on a career on small business, don't you think that there is some inequity in suggesting that those of us in small business, ought to own up to our harness, and press forward these budget cuts, since there's been not any attention paid to budget cuts that ought to be proposed, and tax expenditures that—

Mr. JONES. Sir, I'll have to tell you that I am, personally, not competent to respond, because, first of all, I cannot respond for the administration in its overall policies. I am not a tax expert, and indeed in my own, personal, involvement in SBA, I simply have not gotten into that. I would not, in any way, presume to argue with your point, or to suggest that it is not an accurate one. I simply am not competent to respond.

I would like to say one thing, sir, I know that OMB did not simply take an approach here of cutting, without analysis and without very careful consideration. They did carefully consider, but they had a much larger piece of pie to deal with than just SBA, and I think that they did a very credible job of trying to assess the impact, and trying to weigh the budget cuts on SBA, in terms of the overall economic recovery program.

Mr. DORGAN. Just two more points, Mr. Chairman, for the record.

Mr. MITCHELL. Yes.

Mr. DORGAN. For someone who has owned two small businesses, and also being in the tax field for 10 years, I want the record to show that the cuts in small business are here, and they are real, but there are no such cuts in the tax expenditures, which really represents such control over big corporations in the country.

Small businessmen who talk to me these days tell me that their two biggest problems are by far, high energy costs and high interest rates. I think all of us want economic recovery, but at the same point we want an energy program that works, and want a monetary program that's sensible.

Finally, I'd like to address page 7 of your testimony, the notion that we should approve one interest rate for all business disaster loans, a rate that right now would be a little over 13 percent and this would be consistent with that proposed for farmers under the Farmers Home Administration. I just want to note for the record that consistency is not a virtue if it's consistently wrong, and I don't think that consistency, in this case, of a 13-percent interest rate on disaster loans is good public policy for small business, or farmers, in this country who suffer disasters. Thank you, Mr. Chairman.

Mr. MITCHELL. On that very firm basis, your time has expired, thank you.

Mr. BEREUTER, you're recognized for 5 minutes.

Mr. BEREUTER. Thank you, Mr. Chairman, I'll be quite brief.

I'd simply like to compliment you on your testimony which I've now had a chance to review, and on your attitude, and I would say that the concerns expressed about inequitable treatment, as related to the Small Business Administration, or to the agricultural programs, for that matter, are not complaints that I received from my constituents. The only time I hear them enunciated, at this point, are here on Capitol Hill. I have on the offside consistently found my constituents coming in to my office and writing me saying, we are willing to live with the judgments that are being expressed by the administration, at this point, because we think the outcome that is suggested is so important to us, directly, and to the country. And I would also say that it's highly premature to me to make judgments about a tax program that has not yet been totally presented to the Members of Congress.

Thank you for your appearance here today, and I look forward to some of the information that has been requested by Mr. Ireland, for example.

Mr. JONES. Thank you, sir.

Mr. BEREUTER. Thank you, Mr. Chairman.

Mr. MITCHELL. Mr. Roemer.

Mr. ROEMER. Thank you, sir. I'm here to learn, not teach; so I'll listen, Mr. Chairman.

Mr. MITCHELL. Mr. Mavroules.

Mr. MAVROULES. Thank you very much, Mr. Chairman. And I'd like to thank Mr. Jones for his tender this morning. I may take issue with you on part of your programs, but I appreciate where you are coming from. Most of my questions have been answered, but I wonder if you could provide, for the record, and for the committee, additional information when you send some of the information that you were asked for, before. I would like to know the percentage of small business, during 1979, or fiscal 1980, that has gone out of business. Do you have those figures available, or could you make them available to us?

Mr. JONES. I'll try and make them available, sir.

Mr. MAVROULES. I think it is extremely important that we gather this information.

Mr. JONES. That's, of course, one of the things that we are interested in, in this external data base, and that is a very, very difficult data base to achieve.

Mr. MAVROULES. I realize that. I know it's difficult but I think it's extremely important that we have that information.

[Material requested follows:]

BUSINESS FAILURE DATA

The problem with almost all the published data on business failures is that it pertains to large business. The number of business failures is listed on an annual basis in The Business Failure Record of the Dun and Bradstreet corporation. However, two items must be noted. First, the data are not stratified by size, and second, a business failure is defined by Dun and Bradstreet as a case in which a creditor loses money. Therefore, the basis of the Dun and Bradstreet failure statistics is the federal bankruptcy proceedings.

The difficulty in identifying small business failures occurs in that a large percentage of failures occur in which creditors do not lose money; this does not mean however, that the original investor or investors do not lose money. But rather that the failure is not recorded in any official statistics.

The Dun and Bradstreet corporation does, however, maintain a "delete" file of businesses which leave their data file.

The problem, however, is that businesses may leave the Dun and Bradstreet file for a variety of reasons—such as retirement, desire to change professions, as well as business failures. While it is impossible to estimate what percentage of deletions are business failures, we suspect that the majority are in fact failures. The table below provides some indices (based upon the work of David Birch of MIT) on business closings:

SURVIVAL PROBABILITIES AND INDICES (1969-76)

[0-20 = 1.00]

Initial size	Surviving past 4 yr		Surviving past 9 yr		Continuing to survive 10 plus	
	Survival probability (percent)	Index	Survival probability (percent)	Index	Survival probability (percent)	Index
0 to 20.....	37.4	1.00	17.3	1.00	8.6	1.00
21 to 50.....	53.6	1.44	35.2	2.03	26.2	3.05
51 to 100.....	55.7	1.49	36.4	2.10	27.4	3.10
101 to 500.....	56.4	1.51	36.8	2.13	28.3	3.29
501 plus.....	67.7	1.82	42.5	2.46	35.7	4.15

Source: Calculated from data in table 4-6 in David L. Birch, "The Job Generation Process."

While this data is not current, it might be applied to the month-to-month Dun and Bradstreet data to estimate business failures by size of company.

The only truly correct method of estimating small business failures would be to make personal contact with a sample of businesses that have left the file.

Mr. MAVROULES. Also, the outlays on the part of the Federal Government over the course of the years, in revenues engendered by those outlays of people who have been employed through small business, do you have those figures for 1979 and 1980?

Mr. JONES. We do have figures relating to the employment; Mr. Carver does not have them with him. I can supply them for the record, but I might make one comment, sir. One of the things that we have puzzled over is just what is this small business constituency? Because at any given time there are thousands of them going into business, on any given day, and probably a like number going out of business, and so when you take a snap shot in time, that's all it is. People have suggested to us, why don't you come up with an accurate figure as to how many small businesses there actually are? The figure that we had yesterday might not be very accurate today, in terms of all the new ones that are opening up every day.

Mr. MAVROULES. I realize that. I hope you respect where I am coming from?

Mr. JONES. Yes, I do, indeed.

Mr. MAVROULES. I am trying to gather information as an individual, on this committee, to find out whether this whole business on small business, is worth it. I'm trying to find out whether we should improve it, or increase it rather than take the 25-percent cut across the board, and I think in order to make that determination, we should have the figures before us so that we can evaluate

them very carefully, before we take these hard steps—and they are going to be hard steps.

I agree with your programs. I want to see a balanced budget by 1984, and this is the way to do it. And just a number of general questions; I'll appreciate whatever you can do.

Mr. JONES. We'll respond as quickly and as completely as we can, sir.

Mr. MITCHELL. Mr. Hiler?

Mr. HILER. Yes, Mr. Jones. I'd like to complement you on your prepared testimony. I have some questions on, particularly, your willingness, or SBA's willingness to absorb cuts, as you say, to programs that you find meaningful, but in the interest of trying to promote a greater good within the economic recovery program, when you talk to small business, what do they usually attribute the high interest rates to?

Mr. JONES. Inflation.

Mr. HILER. What do they usually attribute the inflation to?

Mr. JONES. Well, you, of course, experience varying degrees of sophistication. [Laughter.]

An awful lot of them attribute it to excessive Government spending.

Mr. HILER. Excessive Government spending. So really, you back off that and then come back down to the interest rates, that usually you can say—I am a small businessman, and I try to follow pretty closely. Of those 12 to 16 million small businesses out there the overwhelming percentage usually attribute their woes of high interest rates and high inflation to excessive Government intervention, which will be credit markets, or spending markets, or regular programs.

Mr. JONES. I think that a lot of them probably do, sir, and I think that a lot of them are far more qualified as economists, than I am. It's thin ice that I would tread on. I do think that there tends to be an awfully easy answer sometimes. You know, all of us in society want a quick answer, and I think we all tend to blame our Government, perhaps more quickly than we should, but there isn't any question about the fact that the administration feels that we all have to readdress the question of Government spending, and that's why these outlay reductions are proposed.

Mr. HILER. Sir, there's pretty widespread support, I would gather, if this program can be identified as part of the entire economic recovery package, pretty wide support for the kinds of cuts that will be happening and that doesn't mean that 18,000 affected businesses might not have rather had the loan guarantees, but generally, if you took the small business community as a whole, they are willing to absorb some of these things for better business in the future?

Mr. JONES. That will be my sense of it, sir. But I also feel and it's only a feeling and impression, that they are waiting to see, because they recognize that on the one hand we have spending cuts, but they are also waiting to see what happens to the tax cut side of the equation. They sure do.

Mr. HILER. Won't you say that if there was any element of American society, today, that are big believers in free enterprise,

and not only the ability to succeed, but chances of failure in the small business community?

Mr. JONES. Absolutely.

Mr. HILER. You talk about the waste, fraud, and abuse of the programs; to reduce the programs by 25 percent cuts, but not in waste, fraud, and abuse, that's not to say that in the next 4 years the Small Business Administration is not going to try to achieve savings by cutting out any waste, fraud, and abuse areas?

Mr. JONES. No, sir. Indeed, there are some specifically identified and targeted goals that relate to opportunities for achieving savings, and relate to opportunities for vigorously investigating, in cooperation with the authority of the Congress. Areas where there may have been some abuse in the past.

Mr. HILER. Thank you very much.

Mr. MITCHELL. Mr. Crockett, you are recognized for 5 minutes.

Mr. CROCKETT. Thank you, Mr. Chairman.

Mr. Jones, I regret that I did not hear your oral presentation. I have glanced through your remarks that were submitted for the record, and I have two concerns about what's happening to small business.

A few weeks ago we had a meeting with parts manufacturers from my State of Michigan who complained about the difficulty of getting financing from banks, because of the employment situation. Together, they employ more people in Michigan than the Big Three, put together. They are going out of business daily, because of the financial situation. I don't think they are going to look very kindly on an administration that is cutting off their source of capital by something like 25 percent.

I've also had meetings with black businessmen in my district, and if there is any program that has contributed, meaningfully, to the progress of black business, it has been the program of the Small Business Administration.

Considering the level of racism that characterizes American big business, you and I should appreciate what's going to happen to black businessmen if this program continues to be cut back.

Now, I am aware that as a group, the blacks did not support the Reagan administration; it might very well be that this is one way of getting even with them for not supporting the administration, though I don't think that's what's in the background. I think, basically, that's what's in the background is the expression of the Reagan political philosophy that if you take care of those on top, a little bit will trickle down for the benefit of those at the bottom. I think it's awfully poor politics. Thank you, Mr. Chairman.

Mr. MITCHELL. Mr. Evans.

Mr. EVANS. Thank you, Mr. Chairman. I want to take another approach, Mr. Jones, and you pointed out, in response to Mr. Dorgan, that there had been no analysis of programs to determine which programs were working, and which were wasting. I think one of the most noble of all of these programs that have been proposed by Congress is the 8(a) program, to help socially and economically disadvantaged minorities.

Mr. JONES. We wholeheartedly agree, sir.

Mr. EVANS. And I am very concerned about that program, and I would like to give you some facts and figures that I have been able

to put together, to see if there is a way that we can analyze this program and make it more responsive to the objectives that Congress intended, and I would like to preface my remarks by saying that my objective is to provide help to a greater number of people, with the objective of helping these people to be able to compete in the open marketplace.

And let me just point out a few figures: Over 4,000 firms have participated in the program after being certified as socially and economically disadvantaged. Of these, less than 180 firms have graduated and approximately 2,300 firms terminated, withdrew, or failed while in the program.

Now, part of the problems are that in 1980, 65 8(a) firms received almost one-third of the \$1.2 billion in contracts that were set aside under that program.

From preliminary research, which I have conducted, 3.5 percent of the 8(a) portfolio has received almost 30 percent of all contract awards; that's \$4.2 billion, in the past 12 years.

At the same time one-third of the portfolio has not been awarded contracts for the past 3 years; that's at least 600 firms. It's my belief that because a disproportionate number of contracts are going to an elite group, a larger number of firms are being denied support and assistance.

It appears from limited investigation as of October, last year, or in 1979, that less than 2 percent of all firms ever receiving the business development expenses, received 13 percent of the funds, and 2.5 percent of all firms receiving the advance payments, received close to one-fourth of the total amount dispersed. That's over \$166 million.

Now, my analysis of this program is that it has produced results that conflict with the original intent of Congress. The program goals, the policy initiatives, the lack of incentives for completion of the program, the volume and form of contract assistance, the lack of a clear definition of programing, and success has served to decrease rather than increase opportunities for minority businesses to compete.

I might say, in that respect, that you have a tremendous number of firms that have been in the program for over 5 years that's creating a dependency upon the Federal Government to operate, and when you have less than a 5-percent success rate in a program, isn't it time to redirect that program, and try to accomplish what we intended, when that program was put into effect, and that is to help as great a number of these disadvantaged small businesses become viable in the marketplace.

Mr. JONES. Mr. Evans, I'd like to answer your question this way. First I welcome the figures and statistics that you have cited, because, while I am not an expert on the 8(a) program, and in the past have not normally worked in this area within the agency, since assuming my present duties on January 20, I have spent, probably, 85 percent of my time on the 8(a) program. And I think that at least in terms of the general thrust, what you suggested here, that you echo my concerns.

One of the things that I have done is to appoint a committee that has done some very hard work looking at 18 separate policy areas in the 8(a) program, or areas where, in my judgment we needed

some clarification, some development policy. That committee has made its report to me, and significantly enough, it was a unanimous report, and the committee now, with the help of the staff of the General Counsel's office, and also the Minority Small Business Capital Ownership Development Organization, is developing the necessary papers—proposals, if you will—for consideration for adoption of interim policies.

Now, I recognize fully, and indeed I have already expressed to staff, that before we move out in this area, No. 1, I have a responsibility to consult with my permanent successor, and certainly a responsibility to consult with the appropriate committees on the Hill. But I want to tell you, sir, that this question of the number of firms that are receiving business development expenses, the number of firms that are receiving the advance payments, our record with respect to graduation, all of these are issues, and indeed there were many others that were considered by this group that I put together.

I don't offer it as any final solution, but I do say to you that it is receiving a very, very high attention and priority at this point in time.

Mr. EVANS. Mr. Chairman, I appreciate very much you giving me this time; I would like to submit to Mr. Jones a copy of these figures for his consideration, and I do support the intent of the program, and I hope that we can redirect.

Mr. MITCHELL. Without objection, of course, that can be submitted.

I would indicate to my colleague, Mr. Evans, that I chair the Subcommittee on Minority Business, and I intend to have indepth oversight hearings on the 8(a) program. I do not hesitate at this moment to say that I am committed to this concept. It's got to work, and whatever is required to make it work, and make it work efficiently, we will do that.

Mr. EVANS. I would like to work with the chairman to support him in that effort.

Mr. MITCHELL. We'd be delighted to have your assistance. I just want to go on record as saying that I am not among those who will insist that the 8(a) program be destroyed. There are some persons who are taking that point of view, and I think it is very foolish. I think that's a very foolish point of view to take, when we look at some of the other failures that have not been associated with minority business programs. So I welcome you in our activity. I am trying to wait for the new Administrator to come in before launching the hearings on the 8(a) program.

Mr. JONES. May I say, sir, the program not only shouldn't be destroyed, but it should be strengthened through the kind of focus that your subcommittee—the kind of focus that Mr. Evans has mentioned, and I, personally, know—speaking for myself and I know for my colleagues in SBA, we are 100 percent committed to strengthening and improving that program. Carrying forward with it, and keeping it a very, very, very strong viable part of SBA arsenal in meeting the problems of small business in this country, and particularly minority small business.

Mr. MITCHELL. We will now have an opportunity for a second round of questioning, and I'll be very brief with my questions.

You have made many statements this morning, and other officials in the Reagan administration made statements about issues that obviously will require legislation. For example, the extension of the 8(a) pilot program—that was in your testimony before the Commerce/State/Justice Appropriation Subcommittee, the loan consolidation issue that has been raised here, increasing the interest rates on direct loans, increasing the interest rates on disaster loans, limiting the disaster loans to “the most needy” and the “credit elsewhere test,” and so forth and so on. There are about seven items here, all of which we think—the Chair thinks—require a legislative submission.

Now, we have not, to date, received any formal request from SBA in terms of legislation to cover these seven points. Now, why have we not received such requests, or No. 2, are such requests on the way?

Mr. JONES. Sir, I'd like our counsel to respond, initially, and then depending on what he says I'd like to say something else. [Laughter.]

Mr. NORTON. I feel like I'm walking into a mine field. We will prepare any legislation which we feel is necessary in order to implement the policy initiatives which we have discussed. Having said that, I await the Acting Administrator's response.

Mr. MITCHELL. If I may, what kind of timeframe are we talking about?

Mr. JONES. Probably 2 weeks, sir. Within 2 weeks.

Mr. MITCHELL. To cover all of the seven issues that I have addressed?

Mr. JONES. Yes, sir, to cover the seven issues. What I was scratching my head for, was that apparently, there is some difference of opinion to be resolved yet, as to whether or not all seven require legislation, or whether some of those purposes can be effectuated through the promulgation of emergency regulation by the Small Business Administration.

Mr. MITCHELL. Well, yes, there is some question, and I think the Chair has taken the position that all seven do require answers.

Mr. JONES. We understand that, sir.

Mr. MITCHELL. We can hassle that out, but I am anxious that we move in a timely fashion, because, as you know there is a deadline under the Budget Act for reporting certain legislation, and we'd like an opportunity to act on various pieces of legislation that would affect the budget for the Small Business Administration. Mr. Marriott?

Mr. MARRIOTT. Thank you, Mr. Chairman. Mr. Jones I have three questions; I hope you can answer them to the point and shortly, so I can get them all through in my time limit.

I have always been under the assumption that the way you get the economy going is not just to cut away, but to stimulate production. Now with that as a criteria, let me ask you three questions.

The small business loans, per se; let's talk about the guarantee loan program. It's my understanding the cost benefit ratio of that program is very good, am I not correct? That is, if you compute what you loan out, how much you lose in default, but what that loan does to the overall economy and gross national product, that you've got, probably, a 3- or 4-to-1 ratio, do you know if that's true?

Mr. JONES. Sir, I don't personally, know. I think we could probably check that for you, and of course, the other factor here is that these loans also stimulate employment.

Mr. MARRIOTT. OK. So, therefore, if we are going to cut something, we ought to be cutting fat, waste, fraud, and mismanagement, not cutting programs that have a positive feedback. The whole administration was based on, if you cut taxes, and then the feedback comes back to the Government, that's what stimulates the economy. Well, it looks to me like if that's the case, we ought to be expanding loan guarantees. Now why aren't we expanding loan guarantees, and reducing the interest rate, if in fact the feedback is where it could be?

Mr. JONES. Sir, I can't adequately answer for the administration, except to point out that Director Stockman has pointed out that the U.S. Government, if we continue this credit program that the Government is in, is going to end up being the only game in town. One of the keystones of the administration's economic recovery program is to reduce the Federal portion of the credit markets, in the country, and to get that back in the hands of the private lenders.

Mr. MARRIOTT. May I just interrupt a minute, though, to make this point. It still bothers me in a big way. Federal bad fiscal policy is the number one cause of inflation, so then what do we do? We apply to that tight monetary controls to solve the inflation problems caused by a bad fiscal policy, then who gets hurt the most? Ninety-six percent of all small businesses go down to the local bank to borrow money.

Now, you put the interest rate up to prime plus $2\frac{3}{4}$, and it looks to me like what you've done is stymied production, and stymied incentive. Now, how does all this tie in to this business of stimulating production, which is the goal of this new economic recovery program?

Mr. JONES. Well, sir, you mentioned the prime rate, and that prime rate, of course, generally is tied to very short term loans. Now, the fact is that even though the prime rate has been up in the 18- to 20-percent area, many of the guaranteed loans made by banks to small businesses, in recent months, had been at 15 percent or less, because the term, the time period during which the loan will run, is considerably longer than the loan term that's associated with the very short term prime rate.

Mr. MARRIOTT. The problem with the small business is not one of not getting money. It's the interest rate factor, and I contend that nobody is making loans; small businesses aren't borrowing money at all, so my concern here is that what we ought to be doing, if the feedback numbers are there, that I think are there, then we ought to be raising the loan guarantee level, because what's the difference in \$9 billion and \$6 billion loan guarantee, if the administrative cost is the same, we ought to be raising the limits; looking for more positive feedback, cutting the interest rate and allowing more businesses to get involved. If you don't take that approach then you ought to go back to the approach that I think was assumed, under your comments, that if by cutting a little bit, if the small business loan program only affects 18,000 businesses out of 10 million businesses, then we ought to scrap the whole program.

Mr. MITCHELL. Would the gentleman yield?

Mr. MARRIOTT. I'd be delighted.

Mr. MITCHELL. I think the gentleman participated in an informal session we had in this very room last month, when we had a number of small businesses from all over the country come in for just a free-flowing exchange, and that was a recurring theme, that we can't borrow. We simply cannot afford to borrow money at the high interest rates. I want to augment his position, if I could. I think we had, approximately, several hundred small business representatives from all sections of the country, and that point was more heavily emphasized than, I think, any other. Thank you for yielding.

Mr. MARRIOTT. I know my time is about up, but I would only like to make the point that my voting record, in this Congress, is about as conservative as you can find. I'll cut anything that I think is unnecessary to this Government. Now, we could cut a lot of things but you have not addressed this feedback concept, and it seems to me to be cutting loan guarantees on small business loans, and raising interest rates, will in the long run be counterproductive, and result in a worse situation than we have now.

I'd sure like to have your group analyze that, in terms of what the bottom line is there.

Mr. MITCHELL. I assume that you would want some time to make that kind of analysis?

Mr. JONES. Yes, sir.

Mr. MITCHELL. I assume that Mr. Marriott did not want an immediate response?

Mr. MARRIOTT. Yes, sir.

Mr. MITCHELL. Mr. Bedell, you're recognized.

Mr. BEDELL. Thank you, Mr. Chairman.

First of all, I would like to congratulate my colleague; I think he's accurately assessed both his voting record and situation with regard to the feedback. [Laughter.]

You say in your statement here, it is proposed to bring the rate of increase of Federal spending below the rate of increase in the GNP. Is that your understanding of the goal of the administration?

Mr. JONES. Well, sir, that's the statement that is made in the document that was submitted 1 week ago.

Mr. BEDELL. The reason I asked, is I think that is a fairly easy thing to do, and I certainly would support trying to do that. You indicate that you are concerned, or that we need to have reductions in our outlays in order to attain that, is that your feeling?

Mr. JONES. Again, sir, I don't feel it is appropriate for me to be the spokesperson for the overall economic program. I think there is—speaking just personally, I think there is a very direct connection, but I would hesitate to be the spokesperson for the economic—

Mr. BEDELL. And the problem is—we all appreciate your being here, believe me, and I was one of those that want people to be here. We talked about the funeral. When people come to a funeral, they come to show that they care. The problem I have is, that we did ask people from OMB; I understand that Mr. Stockman might not have been here because he's so busy; I can't understand why somebody could not have been here, and what I believe they are

telling us is, that they simply don't care. It seems to me that that's a serious, serious thing. If that's the case, and that's the only way I can perceive it, and if the administration doesn't care about small business, I think we have serious, serious trouble because I don't think big business is going to worry about small business. If we are going to turn to big business to help solve our problems, and not care about small business, I think we have terrible problems. And this is no criticism of you in any way. I appreciate your being here.

I am terribly embarrassed over the fact that I was one who insisted we have this meeting, and then we don't have the people we need here.

Mr. JONES. Well I think OMB does care, and I think Director Stockman does care.

Mr. BEDELL. Well when you care, you go to the funeral. But let me proceed if I might.

In regard to the outlays, following what Mr. Marriott said, you believe it's as easy for small business to obtain financing as big business?

Mr. JONES. No, sir, not in the general sense of the word.

Mr. BEDELL. Do you agree that the loan guarantees do not affect the outlays, at that time, and the loan guarantees simply give some direction as to where our capital will flow?

Mr. JONES. Well, sir, that's one of the problems. When our outlay is affected. Because for every guarantee we make, sooner or later, somewhere down the line—

Mr. BEDELL. For the immediate budget, do the loan guarantees affect budget for the—

Mr. JONES. For the immediate budget, for this fiscal year?

Mr. BEDELL. Yes.

Mr. JONES. Minimally.

Mr. BEDELL. If that's the case, and if they will help us toward recovery, if they will help small business, there are some of us that have great trouble, when you testify that these are great programs, that we should cut out loan guarantees which do not adversely affect the budget; which do help small business, which provides most of the jobs that we have, which is in a disadvantageous position in getting money; and then when Mr. Stockman says, the reason we can't do it is because the Government is going to be controlling too much of the lending activity, and we look to those countries which are more successful than we, namely, Germany and Japan, and we find in those countries, that the Government has a tremendously greater say in where their capital money goes, and directs a great deal more, some of us have terrible trouble. And I have terrible, terrible troubles when I realize that the oil companies, at this time, account for 40 percent of all of our net corporate income last year, when I find them spending their money to buy other businesses, rather than to be investing it in productivity, and then for us to say that it is wrong for the Government to get involved, and try to see that that capital is directed toward small business, or toward solving our energy problem, at a time when, obviously, the system isn't working the way it should, and when it's something that does not address what is perceived to be the problem, which is Government spending.

Now, I know I'm just making a speech, and I know the people from OMB are not here to hear it, and I know they are not here for us to question them as to why they think differently than that, but I am doing so because I want to, at least, get this on the record.

There are some of us that really want to support the President's program. Really want to cut outlays. Really want to balance the budget, but we don't see if that's our effort, why we ought to go off in a different direction, which at least I think is completely counterproductive toward that effort, which says what we want to do is leave it up to the oil companies to solve these problems for us, rather than to have some say about trying to direct it where some of us think it's needed.

I thank you for my time.

Mr. MITCHELL. Mr. Jones, you have been very kind to stay with us this long. I know what the demands are on you. I'll ask if other members have questions that they want to raise now, and I will renew my statement that all members will have the time to submit additional written questions to the Acting Administrator.

Are there additional questions as at this time?

Mr. HILER. Mr. Chairman, if I might.

Mr. MITCHELL. Mr. Hiler.

Mr. HILER. Mr. Jones do you know overall, out of the total lending package credit market in this country, do you know how much the Government is involved?

Mr. JONES. Sir, I don't remember the answer. That was addressed last Friday and I just, frankly, do not remember.

Mr. HILER. Of the 25 percent do you know how much of the lending the Government's responsible for?

Mr. JONES. Again, sir, I don't remember.

Mr. HILER. \$1 out of every \$12 of loans in this country—private loans in this country, have Government-backed loan guarantee. In 1979 the total amount of loan guarantee in this country amounted to over \$250 million, or almost twice what the Government loan directed.

Now, I will say, and I'll ask your subjective analysis of this, would you say that that might have a distortion on the credit market in the country?

Mr. JONES. Yes, the Government share grows in an unrestrained fashion, yes, sir.

Mr. HILER. And it continues to grow?

Mr. JONES. Yes, sir.

Mr. HILER. It seems to be at a very high level, won't you say, when those figures are 1 of every 12?

Mr. JONES. Yes, sir; that's a value judgment, and I am not sure that I am competent or qualified to say where it becomes a problem. I've listened with great care to the testimony of others who are far more knowledgeable than I am, in the matter. I simply would have to confess my own incompetence to issue a judgment. Personally, and speaking only personally, I become uncomfortable at the prospect of continued unrestrained growth by the Federal Government in this area, but—

Mr. HILER. I know that some of the cuts in that area are somewhat designed—in the loan guarantee program, is somewhat designed to try to curtail some of that growth in this area, isn't it?

Mr. JONES. Yes, sir, that is my understanding.

Mr. HILER. Because of distortion. There's only so much of the credit pie, isn't it?

Mr. JONES. Yes, sir.

Mr. HILER. So that when you have a certain amount of it being backed by loan guarantees, that gives somewhat preferential treatment into a particular area, doesn't it?

Mr. JONES. I don't know how to answer that, sir. I think the answer is yes, but if we are going to go from that to—OK, what specific areas?

Mr. HILER. That means that the remainder of the creditors out there who don't have a loan guarantee, probably are going to have to have the premium interest rate paid on it, doesn't it?

Mr. JONES. Premium interest rate?

Mr. HILER. Yes.

Mr. BEDELL. Would the gentleman yield?

Mr. HILER. Certainly.

Mr. BEDELL. I don't want to impose upon the gentleman's time; I'd like to get him extra time, if I could, but obviously the gentleman and I have a completely different view, at this point, and I think we should both be heard in that regard.

If you'll proceed, I'd like to ask for extra time, if I might, to point out some of the differences I have on it.

Mr. MITCHELL. You'll be given some extra time. If I may, I did promise Mr. Marriott that—he wanted to intervene with a brief response followup to his request. Could we do that and then come to you, Mr. Bedell?

Mr. BEDELL. Yes, Mr. Chairman.

Mr. MARRIOTT. I just wanted to make the point, I think the comments of the gentleman are very good, but I think the small business loans would be a very minute part of that overall Government guarantee loan program, and we have more guarantee loans to foreign countries, excluding the Soviet Union, than we've got to small businesses, so I think we have to put that in perspective.

I just want to know if you will do one thing, in this regard. There was a study conducted by the Independent Bankers' Association, and the SBA in 1978. The study concluded that of every \$1 billion in guaranteed loans, made to small businesses, it cost the Government \$86.8 million; but the Government recovered—Federal only, not looking at State and local recovery—\$263.4 million. So the net profit to Government on SBA loans, on a \$1 billion guaranteed loan, in that year was \$252.6 million. Do you think you could find that study and verify those figures to this committee?

Mr. JONES. If SBA participated in it, I am sure we could find it. [SBA reported that it was unable to find the study.]

Mr. MITCHELL. Mr. Bedell?

Mr. BEDELL. The point I would like to make is that I think there is interference, and I think the Government interferes in many ways, in our total economic system. I think that we have tax laws, for example, that are tremendously beneficial to big business; I think we have a judicial system which is tremendously beneficial to big business. I would hope nobody would pretend that the Government does not interfere; it interferes tremendously. But the fact is that if 40 percent of our corporate profits last year were made by

oil companies, and if the fact is that we have tax laws which tend to say that because of those laws we tend to get our capital from internal generation, then we have interfered and we have made it possible for a large amount of that money to flow to big business enterprises.

Now, if we believe that Government should not interfere in any way, then I believe we make across-the-board cuts, and I believe that what we are talking about now, and I congratulate the gentleman for bringing it up. I think it's a good thing to discuss, because I think it's a completely separate argument from the argument in regard to balancing the budget in fiscal responsibility, and controlling inflation.

Where I think it is imperative is that it can be shown that small business generates significantly more jobs; that loans to small business, generally, are for the expansion of that business, not for that business to simply buy out some other corporation. I believe, therefore, that it is imperative upon us to look to how we can best help to see that we have an economy where there is the opportunity for small business to survive.

Mr. HILER. If I may reclaim my time for a moment?

Mr. MITCHELL. Certainly.

Mr. HILER. I think the question and the line of direction that was taken right here, is that when we only have so much of a credit pie available, and there is a certain amount that's being loaned by the Government, which is one-fourth, one-sixth, one-eighth, or whatever, or 1 out of every 12 loans guarantees \$254 billion. The fact remains that the credit that's available for that small business, the other 13½ million, aside from the 18,000 to 30,000 that get the loans, and the loan guarantees, when they go out and borrow they have to go to credit markets that have been severely distorted by Government programs and that small business goes in and he pays premium. He pays a couple percent over prime, he's got prime at 20 percent, or 21 percent, and that's one of the main reasons—it's very hard because of a lot of distortion in the credit market, and it may be, in fact, that the small business—this amount of money here is not great when you talk about \$254 billion in general total, in loan guarantees.

Mr. Jones, I think you've illustrated this morning that small business is willing to take its share of total economic recovery package, and is not looking to any special breaks or any special considerations, and I think that was brought out in prior time of questioning.

I think it is very popular to blame everything on the oil companies, but I think when the Government is involved in one-quarter of all borrowing, and one-sixth of all lending and \$254 billion in loan guarantees, then the area of interest rates is going to have to take some responsibility. And I think we talked about the fact that the main thing that's affecting small business today, are those high interest rates, and that's the principal reason for failure, because the small businessman who has a sporting goods store, or a shoe store and has to go out and try to find working capital to make do from month to month, just having to pay that 2 percent over prime, due to that distorted market—I suppose that's a little bit of a speech but on the subject of loan guarantees I get excited.

Mr. MITCHELL. Let me just indicate that obviously we are dealing with some real tough economic and philosophical economic questions, but in closing I just want to raise some additional concerns. If indeed we are talking about denying 18,000 businesses access to loans, what does that mean to the unemployment picture? Does this add on to unemployment, or does it prevent some further reduction of unemployment?

It seems to me the problem is that we've tried to just focus on one, or two, or three areas of dispute without looking at the entire picture, either in terms of the growth in the GNP, in terms of reducing unemployment, and so forth.

Now those are my concerns and that's where I will be looking very carefully at this whole package, because I don't think we can just narrowly focus it as it has been done.

Mr. BEREUTER. Mr. Chairman, may I attempt to end a very serious session with a little levity?

Mr. MITCHELL. We always need levity.

Mr. BEREUTER. I would say that first of all I don't think we should construe the administration's lack of interest, or support for the small business program on the basis of OMB's failure to be here. From my experience in Congress and out, and over past administrations of both parties has been that OMB typically does not come to these kind of things, the administration speaks through the department.

Now, I would say to my colleague from Iowa who was David Stockman's landlord here on Capitol Hill, and who by his own admission, on one occasion or more, failed to supply sufficient heat for Mr. Stockman [laughter] that I really do not believe that as a fact either, Mr. Bedell, and we hope that it is not.

Mr. MITCHELL. I think the Chair would have to rule that the gentleman's remark about heat or lack thereof is not germane to the discussion here this morning.

Mr. WEBER. Mr. Chairman, I just want to get two quick questions on the record.

Mr. Jones, at the bottom of page 8 of your prepared statement you say we are not abandoning management assistance. Tying in to my previous line of questioning about the programs for the handicap, minorities, and women, and so forth, will the SCORE and the ACE management assistance programs be sufficient to meet the increased demand for assistance as a result of elimination of the SBDC program, in your judgment?

Mr. JONES. Sir, I guess the honest answer to that is, we anticipate that that will be the case, but let me give you the other side of that too. We leverage the capabilities through SCORE and ACE because there's no way we can ever have enough manpower directly on the SBA rolls to do the management assistance job that's out there in the small business community. I think members of this committee quite aptly pointed out, many times, that when small businesses fail during their first 5 years, it might be for lack of capital, but often it's not. It's also because of management problems, and we recognize the vast seriousness of the management assistance problem that the small businesses face.

I could not say to you that SCORE and ACE become any automatic answer to all of our problems, they don't, but we are going to do our darndest.

Mr. WEBER. Then the second question is, speaking of the non-physical disaster loans which will be eliminated from the budget, is there any agency that will handle this type of loan if it's taken out of the Small Business Administration jurisdiction?

Mr. JONES. Mr. Carver, do you know?

Mr. CARVER. It's assumed that the same small businessmen probably would be able to utilize our regular loan program that's part of the consideration of the consolidation with the broader administrative ability to meet the needs.

Mr. JONES. You're talking about 7(a) loans being available to them?

Mr. CARVER. Yes.

Mr. MITCHELL. Yes, Mr. Daub.

Mr. DAUB. I was very encouraged to hear the chairman indicate that shortly we'll be looking at 8(a) in the subcommittee on which it is my privilege to serve and I want to lend my assistance in that regard. I think it's a fine program that needs to be reworked, and I direct a question from your study that you said was unanimous—

Mr. JONES. The report to me was unanimous.

Mr. DAUB. Your committee internal to your job?

Mr. JONES. Yes, sir.

Mr. DAUB. When the new Administrator is confirmed then the basis for accelerating information to our committee chairman, here, so that he might initiate this inquiry promptly. I hope that you will make that study available in the course of the next couple of weeks to this committee and the chairman, when the new Administrator has a chance to review it.

Mr. MITCHELL. What the Chair proposes to do, or what I propose to do, as chairman of the subcommittee is to request that all documents, all studies relating to the 8(a) program be made available to the subcommittee.

Mr. DAUB. I really encourage this to occur, I was appreciative of the Acting Administrator's statement, Mr. Chairman, of their support for working with this committee.

Second, let me indicate that a number of small businesses I know, farmers, small business people in my district, say well when you make low interest loans available you essentially subsidize my competitive shop and our ability to put our goods on the market, or services out for consumption. When one business is at the market rate and the Small Business Administration loan assisted low interest business, it is actually competing with that other business, to the extent that the viable business did not start with loans, or have need to go into a loan program, then commences to shut down, lay off, and go out of business, so it seems to me that Japan and Germany clearly have taken the right approach because they don't monetize their debt. They don't print money when they've got the kinds of economic circumstances that we have.

I think that's why your Administration is correct in supporting the market rate approach to small business loan and guarantees, and I think that you should stand firm in that position. Thank you, sir.

Mr. MITCHELL. Thank you, sir. I think we shall have further discussions on this, Mr. Daub, in terms of that particular approach. Gentlemen, thank you very much for your participation this morning.

Mr. JONES. Thank you very much, Mr. Chairman.

[Whereupon, at 10:40 a.m., the committee adjourned, to reconvene subject to the call of the Chair.]

SBA LEGISLATION AND PROGRAMS (PART 1)

TUESDAY, APRIL 7, 1981

HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON SBA AND
SBIC AUTHORITY, MINORITY ENTERPRISE AND GENERAL
SMALL BUSINESS PROBLEMS, COMMITTEE ON SMALL
BUSINESS

Washington, D.C.

The subcommittee met, pursuant to notice, at 8:35 a.m., in room 2359-A, Rayburn House Office Building, Hon. Parren J. Mitchell (chairman of the subcommittee) presiding.

OPENING STATEMENT OF CHAIRMAN MITCHELL

Mr. MITCHELL. Good morning. The hearing will come to order. This morning we are pleased to have before the subcommittee the new Administrator for the Small Business Administration, Mr. Michael Cardenas, and on behalf of the subcommittee I want to extend to you a warm welcome on your first appearance before the subcommittee. I am sure we will be seeing a lot of each other as the year progresses.

This morning's hearing is on the administration's disaster bill request and the administration's request for loan consolidation. These proposals have been introduced in the House of Representatives by myself and Congressman McDade, the ranking minority member.

The bills were introduced by request. This means that we are neither approving nor disapproving the legislation set forth by the administration, but rather we are providing the means for consideration of these proposals. I want to go on record now as saying I have very, very serious reservations about these two proposals.

Under the disaster bill, H.R. 2997 all loan applicants would be required to establish that they could not obtain credit from any other source.

The interest rates on the loans would be increased to a formula rate involving cost of Federal borrowings plus 1 percent. Today this would mean an interest rate of 14 percent in lieu of the present program which establishes homeowner rates at 3 percent and rates to businesses unable to obtain credit elsewhere at 5 percent.

SBA would no longer make any loan assistance, business or disaster, available to agricultural small businesses.

Seven nonphysical disaster loan programs such as displaced business loans, energy crisis loans, and OSHA compliance loans, along with the water pollution control program, would be repealed.

Economic injury disaster loans to those small businesses which suffer loss of business due to their existence in a declared disaster area would be limited to \$100,000 per borrower and the situations

in which they would be eligible for such assistance would be curtailed.

Under the loan consolidation bill, H.R. 2998, a new consolidated loan program would be established in lieu of the regular business loan program and three existing loan programs would be repealed, each of which was enacted with specific provisions to meet particular needs of the small business community.

In the new loan program, the interest rates on direct loans would be set much higher, probably at about 20 percent; longer repayment provisions would be permitted and an increase would be made in the maximum amount of a guaranteed loan from \$500,000 to \$750,000 per borrower.

The SBA would be given complete discretion as to the amount of financial assistance which would be provided under each program and as to the amount to be spent in each category in salaries and expenses. This would be in lieu of congressionally determined levels set under existing law.

In addition, we have requested the Administrator to provide us with his views on H.R. 2781 which would effectively overrule the regulatory change made by the Small Business Administration on March 19 in its disaster program. This change establishes a credit elsewhere test for business disaster loan applicants and limits loan eligibility to 60 percent of the net actual loss.

Finally, we have received a "Statement of Need and Purpose" on both bills. Without objection those statements and related correspondence will be inserted in the record at this point.

They will be inserted immediately following the opening statement by the ranking minority member, Mr. McDade.

OPENING STATEMENT OF HON. JOSEPH M. McDADE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. McDADE. Mr. Cardenas, I welcome you to our hearing this morning and I look forward to working with you during the current Congress. You are, indeed, an excellent individual to head the Small Business Administration, an agency that can count as its constituency 97 percent of all businesses in America.

As you know, the Small Business Committee has generally accepted the President's proposed budget figures for the Small Business Administration for the remainder of this fiscal year and for the next one. Should these recommendations ultimately be adopted by the Congress, small business credit programs will be reduced by approximately 25 percent in 1982.

Because of the size of the proposed budget cuts and because of the vast small business constituency, you will be confronted with many difficult decisions in the months ahead. Unquestionably, there are programs within the jurisdiction of the agency that have greatly benefited the small business owner and should be retained. However, there are other programs, as in any agency, which are inefficient or wasteful and are in need of reduction or overhaul. I am sure that in the near future the various programs of the Small Business Administration will receive the very careful scrutiny of both the Administrator and this subcommittee in an effort to deter-

mine how effectively and efficiently these operate. We all look forward to working with you for the benefit of small business owners.

I think, Mr. Administrator, that you will find that the members of our committee are deeply committed to the interests and concerns of the small business community. Our new chairman, Parren Mitchell, has already proved to be a dedicated, able leader. In fact, all of us have pledged to work in a bipartisan effort to achieve the most benefit, given budgetary constraints, for the small business community.

Thank you for being with us this morning.

["Statement of Need and Purpose" and related correspondence follow:]

U.S. SMALL BUSINESS ADMINISTRATION,
Washington, D.C., March 23, 1981.

Hon. THOMAS P. O'NEILL,
Speaker of the House, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I am enclosing for your consideration and appropriate reference a bill, "To amend the Small Business Act."

This bill would amend the Small Business Act to consolidate SBA's present six distinct business loan programs which have differing statutory features regarding eligibility, amount available, maturity and interest rate, into one uniform program with singular statutory features as to interest rate, maturity, amount available and eligibility. The advantages of this proposal are that it will eliminate public confusion as to availability of SBA programs, eliminate inequities in the present administration of conflicting statutory provisions, and promote uniform and easier administration within SBA.

Sincerely,

ROGER H. JONES,
Acting Administrator.

Enclosure.

A BILL to consolidate and modify the terms of the Small Business Administration programs under sections 7(a), 7(e), 7(h), 7(i), and 7(l) of the Small Business Act and sections 501 and 502 of the Small Business Investment Act of 1958

Be it enacted that by the Senate and House of Representatives of the United States of America in Congress assembled,

Subsection (a) of section 7 of the Small Business Act is amended to read as follows:

"(a) The Administration is empowered to the extent and in such amounts as provided in advance in appropriation Acts to make loans for plant acquisition, construction, conversion, or expansion including the acquisition of land to State and local development companies and for the purposes of title V of the Small Business Investment Act of 1958, and to make loans to assist any qualified small business for the purposes of this Act. Such financing may be made either directly or in cooperation with banks and other financial institutions through agreements to participate on an immediate or deferred (guaranteed) basis. The Administration is further empowered, only to such extent and in such amounts as are provided in appropriation Acts, to make or effect either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis extensions and revolving lines of credit for export purposes to enable small business concerns to develop foreign markets and for preexport, financing: *Provided, however,* That no such extension or revolving line of credit may be made for a period or periods exceeding eighteen months. A bank or participating lending institution may establish the rate of interest on extensions and revolving lines of credit as may be legal and reasonable. The foregoing powers shall be subject to the following restrictions and limitations.

"(1) No financial assistance shall be extended under this subsection unless the financial assistance applied for is not otherwise available on reasonable terms.

"(2) No immediate participation may be purchased unless it is shown that a deferred participation is not available; and no direct financings may be made unless it is shown that a participation is not available.

"(3) In agreements to participate in financing on a deferred basis under this subsection, such participation by the Administration shall not be in excess of 90 per centum of the balance of the financing outstanding at the time of disbursement.

"(4) No financing under this subsection shall be made if the total amount outstanding and committed (by participation or otherwise) to a borrower (other than a State or local development company) from the revolving fund established under section 4(c)(1)(B) of this Act would exceed \$750,000: *Provided*, That such financings, made either directly or in cooperation with a financial institution through agreements to participate on an immediate basis, shall not exceed \$350,000.

"(5) The rate of interest on financings made on a deferred basis shall be legal and reasonable and on the Administration's share of financings on a direct or immediate participation basis shall be at a market rate of interest as determined by the Administration from time to time, and based upon the prevailing market rate of interest being charged by banks and other financial institutions for similar financings. In no event shall this rate of interest be less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus an additional charge of not to exceed one percentum per annum and adjusted to the nearest one-eighth of 1 percent.

"(6) Maturities of such financings in each individual case shall be based on the business purposes of the financings, the ability to repay, and the sound credit judgment of the Administration, and will conform to the maximum extent practicable with private institution lending criteria or practices, but may not exceed a maximum of thirty (30) years.

"(7) All financings made under this subsection shall be of such sound value or so secured as reasonably to assure repayment.

"(8) Qualified small businesses for the purposes of this subsection shall be firms meeting the requirements of section 3 of this Act: *Provided, however*, That a qualified small business concern owned and controlled by an Indian tribe as defined in section 4(a) of the Indian Self-Determination and Education Assistance Act, and any public or private organization, whether or not organized for profit, which is organized under the laws of the United States or of any State and employs handicapped individuals for not less than 75 per centum of the manhours required for the production or provision of commodities or services, shall also be eligible.

"(9) Financial assistance may be advanced to a State or local development company for use and investment by such company in combination with funds secured from other sources in accordance with conditions prescribed by the Administrator. The total amount of outstanding obligations purchased or guaranteed by the Administration from any one State or local development company shall not exceed the total amount borrowed by the company from all other sources.

"(10) Proceeds of financings to State and local development companies made directly or in cooperation with banks or other financial institutions, shall be used solely by such borrower to assist an identifiable small business concern. Such financings shall not be made if the total amount outstanding and committed to any one identifiable small business concern from the revolving fund established under section 4(c)(1)(B) of the Small Business Act would exceed \$750,000."

"(11) (A) The Administration may guarantee under this subsection (a) a loan to a qualified employee trust with respect to a small business concern for the purpose of purchasing stock of the concern under a plan approved by the Administrator which, when carried out, results in the qualified employee trust owning at least 51 percent of the stock of the concern.

"(B) The plan requiring the Administrator's approval under subparagraph (A) shall be submitted to the Administration by the trustee of such trust with its application for the guarantee. Such plan shall include an agreement with the Administrator which is binding on such trust and on the small business concern and which provides that—

"(i) not later than the date the loan guaranteed under subparagraph (A) is repaid (or as soon thereafter as is consistent with the requirements of section 401(a) of the Internal Revenue Code of 1954), at least 51 percent of the total stock of such concern shall be allocated to the accounts of at least 51 percent of the employees of such concerns who are entitled to share in such allocation,

"(ii) there will be periodic reviews of the role in the management of such concern of employees to whose accounts stock is allocated, and

"(iii) there will be adequate management to assure management expertise and continuity.

"(C) In determining whether to guarantee any loan under this paragraph, the individual business experience or personal assets of employee-owners shall not be used as criteria, except inasmuch as certain employee-owners may assume managerial responsibilities, in which case business experience may be considered.

"(D) For purpose of this paragraph, a corporation which is controlled by any other person shall be treated as a small business concern if such corporation would, after the plan described in subparagraph (B) is carried out, be treated as a small business concern.

"(E) The Administration shall compile a separate list of applications for assistance under this paragraph, indicating which applications were accepted and which were denied, and shall report periodically to the Congress on the status of employee-owned firms assisted by the Administration."

SEC. 2. (a) Sections 7(e), 7(h), 7(i), and 7(l) of the Small Business Act are hereby repealed.

SEC. 3. The amendments and repeals made by this Act shall be effective immediately but shall not affect any financing made, obligated or committed under the Small Business Act or the Small Business Investment Act of 1958 prior to the date of enactment.

SEC. 4. (a) Section 4(c)(1)(B) of the Small Business Act is amended by deleting "7(e), 7(h), 7(i), and 7(l)".

(b) The last two sentences of section 10(b) of the Small Business Act are hereby repealed.

(c) Subsections 20(h)-(m) of the Small Business Act are hereby repealed.

SECTION-BY-SECTION ANALYSIS

SEC. 1.

Proposed Sec. 7(a) Rewrites section 7(a) to consolidate all present business loan authority under that section.

Proposed Sec. 7(a)(4) Increases the 7(a) guaranteed lending ceiling to \$750,000.

Proposed Sec. 7(a)(5) Provides a change in SBA's direct loan interest rate. The new market rate will permit a closer approximation of market conditions.

Proposed Sec. 7(a)(6) Provides up to a 30-year term for 7(a) business loans, with the determination of maturity being left to the Administration on a case-by-case basis.

Proposed Sec. 7(a)(11) Retains authority granted to SBA to make and guarantee business loans to employee stock option plans.

SEC. 2.

(a) Provides for the repeal of the programs either being consolidated into section 7(a) or those being eliminated.

SEC. 3.

Is the savings clause to ensure continued borrower's rights under repealed programs.

SEC. 4.

Section (a) conforms the Business Loan and Investment Fund Provisions of the Small Business Act to the new consolidated 7(a) program.

Section (b) eliminates the specific reporting requirement for the repealed 7(l) Energy Loan Program. Section (c) repeals the present line item authorizations and salaries and expenses authorizations which are incompatible with a consolidated loan program.

STATEMENT OF NEED AND PURPOSE

I. GENERAL STATEMENT ON CONSOLIDATION OF BUSINESS LOAN PROGRAMS

Presently section 7 of the Small Business Act and Sections 501 and 502 of the Small Business Investment Act provide for six distinct business loan programs to be administered by the Small Business Administration. Each of these programs has differing statutory features regarding eligibility, amount available, maturity and interest rate.

The inconsistency in the current law results in unequal terms and conditions for assistance rendered under each of the programs. For example, if a business person were to request a regular direct loan from SBA under any programs other than that established under section 7(i), the interest rate in fiscal year 1981 would be 9¼ percent. However, if that same business person qualified as "socially or economically disadvantaged" under section 7(i), the interest rate on the loan would be 11¾ percent. The maximum term for a real estate loan for a section 7(a) borrower is 20 years. If that same borrower went to a local development company for a section 502 loan, he or she could get a 25 year maturity. The maximum loan size also varies among the programs. The chart below indicates other similar inconsistencies among the various statutory provisions.

Section of Small Business Act

	7a	7b	7i	7j	501	502
Interest rate	On direct loans from SBA 9 1/4 percent a rate established by statutory formula. On immediate participation loans set by statutory formula. On guaranteed loans set by formula contained in regulations.	Three percent on SBA's share of any loan.	On direct loans from SBA and immediate participation loans set by formula in statute. On bank loans guaranteed by SBA set by bank with guidance by SBA from time to time as explained in regulations.	Same as 7a	Set by SBA	Guaranteed loans a reasonable rate; immediate participation loans a published rate set by SBA on its share a reasonable rate on banks share; direct loans by SBA a published rate.
Maturity	Maximum of 10 yr as a rule. However, working capital loans are limited to 6 yr and portions of loans for construction or real estate acquisition may have a 20 yr maturity.	Maximum of 15 yr	Maximum of 15 years. Working capital loans generally are limited to a 10 yr maximum.	Maximum of 15 yr	Maximum of 20 yr, but generally 5 to 10 yr in term.	Maximum of 25 yr plus estimated time to complete construction.
Maximum amount	To any one borrower \$350,000 for a direct loan from SBA or immediate participation bank loan. SBA may guarantee up to 90 percent of a \$500,000 loan made by a bank.	To any one borrower \$350,000 either directly from SBA or guaranteed by SBA.	\$100,000 to any one borrower....	To any one borrower \$500,000 for direct or guaranteed and \$350,000 for immediate participation.	Indefinite but generally between \$500,000 and \$1,000,000.	\$500,000.
Eligibility	Most businesses/people including farmers.	Nonprofit organizations employing the handicapped business people.	Low income or disadvantaged individuals who lack economic opportunities and cannot obtain financing elsewhere.	Energy oriented businesses	State development corporations ...	Local development corporations.

In addition to causing inconsistency in the terms and conditions of the loan program, the differing statutory provisions, also make the loan programs difficult to administer. From an administrative standpoint separate budget items relative to each of the present programs must be maintained by SBA, separate standard operating procedures are necessary, and field personnel must be responsible for interpreting an increasing number of differing rules and regulations for each program. Consolidation of the loan programs would reduce these complexities and thereby streamline the management of the loan programs. Thus, SBA offers this proposal to accomplish that purpose.

Under the proposal, all of SBA's business lending authority would be consolidated into a new section 7(a). This authority would permit SBA to make deferred participation, immediate participation and direct loans¹ to small businesses, employee stock ownership plans and local development companies under terms and conditions which will be uniform, administratively sound and fiscally responsible, without diminishing any of SBA's present authority. At the same time, the confusion presently existing because of the myriad of statutory provisions governing each of the existent separate SBA business loan programs should be eliminated.

It would also permit SBA to make financial assistance available to any qualified small business for any purpose consistent with the provision of the Small Business Act. The new § 7(a) streamlines a complicated statutory provision which has evolved over 25 years of providing simpler language. It would not deprive qualified small business of any assistance which SBA has been providing under the more complicated present provision, and that assistance could be used for any purpose so long as it is consistent with the provisions of the Small Business Act.

II. THE CONSOLIDATED BUSINESS LOAN PROGRAM HAS SEVERAL SPECIFIC FEATURES

A. Uniform interest rate on all business loans

All direct and immediate participation loans made under the proposal will have a uniform interest rate equivalent to the cost of a guaranteed loan. The present subsidized low interest rates for SBA's direct business loan programs clearly generate an artificial demand for direct SBA funds. Any sensible businessman would seek a government loan at roughly half the market rate. The SBA direct loan program should be the "lender of last resort" for those unable to get a bank loan, rather than being so attractive as to be a "lender of first resort."

Such a change would also eliminate market distortion by eliminating the competitive advantage that a small business has when it is able to acquire an SBA loan rather than a bank loan.

B. Increased guaranteed loan limit to \$750,000

SBA also proposes to increase its business lending ceiling to \$750,000 for all SBA guaranteed loans. This would permit SBA to guarantee up to 90 percent of the repayment of a loan of \$750,000 made by a bank or other lending institution. The proposal would not affect the permissible amount of a direct loan SBA may make to one borrower which is presently set by statute at \$350,000. Inflation has necessitated the availability of a greater dollar amount of assistance to serve the needs of small business. This is particularly true for businesses seeking to acquire real property for business purposes or major items of equipment. It should be noted that the small businesses primarily requiring larger loans are those in the manufacturing sector which provide new, permanent employment opportunities.

In recent years there has been a reduction in the percentage of SBA loans made to manufacturing firms, both in number of loans and dollar amount. In fiscal year 1975, 17 percent of the loans and 26.8 percent of the dollars went to manufacturing firms. By fiscal year 1978, these percentages had declined to 14.4 percent in numbers and 20.6 percent in dollars. This decline is attributable, in part, to the fact that the maximum loan amount was insufficient for the needs of many firms and therefore these firms were unwilling to seek SBA assistance. We feel that implementation of our proposal will help reverse this trend, and thereby assist in the creation of new job opportunities.

For many years the ceiling on SBA guaranteed loans was \$350,000. In 1976 this was increased to \$500,000 to recognize the impact of inflation, but at the same time the Congress indicated that it was intended that loans in excess of this amount should be approved only under exceptional circumstances. Even with this admonition, because the demand for large loans has been so great, SBA has approved in excess of 1,000 loans per year of \$350,000 in fiscal years 1978 and 1979 and in excess

¹ As defined in 13 CFR §§ 122.6, 7, and 8, respectively.

of 500 loans per year were approved in excess of \$450,000 in fiscal years 1978 and 1979. Thus, we feel there is today obviously a demand and a need for a further increase.

C. Increased maturity on business loans

Our proposed amendment to the Small Business Act would also authorize up to a 30-year maturity on all business loans with each case being judged on its own merits, and without a presumption of a 30-year maturity in any given case. This proposal would allow better terms of repayment to small business borrowers while still protecting the interests of the government. The proposal would permit a loan's maturity to be better related to its purposes of the financing and, to the maximum extent practicable, would permit a parallel to the approach used by private sector lenders. It would also better permit SBA to make adjustments in maturity to meet the cash-flow expectations of the borrower.

For some years SBA has had the authority under the section 7(a) program to make long-term loans for acquisitions of real estate or construction (first up to 15 years, then to 20 years). We feel strongly that a general policy of long-term loans, with smaller monthly payments for a longer period, would be especially beneficial to all small firms in today's inflationary economic climate.

D. Elimination of obsolete provisions

Our proposed amendment would eliminate two obsolete programs now authorized by the Small Business Act.

1. Trade Adjustment Assistance Loans presently made under section 7(e) of the Act. This authority is no longer utilized by SBA.

2. Pool Loans presently under section 7(a)(5)-(7) of the Act. This is a dormant program. No loans have been made under this authority since 1964, and only two entities have ever received loans pursuant to the authority.

E. Repeal of present program levels

Authorization levels for SBA's Programs and salaries and expenses were first set by Public Law 95-89, August 4, 1977, effective October 1, 1977. Since then the practice of setting program levels statutorily has been continued by Congress in Public Law 96-302, effective July 2, 1980. Before enactment of Public Law 95-89, the Small Business Act authorized the appropriation of sums necessary to carry out the provisions and purpose of the Act and the Small Business Investment Act authorized the appropriation of specific cumulative dollar amounts to carry out programs authorized by that Act. Also, the Small Business Act imposed a dollar limitation on the amount of financial assistance which would be outstanding at any one time.

Public Law 95-89 continued a general open-ended authorization for appropriation, but specified the dollar amount of program levels by fiscal year effective at the beginning of fiscal year 1978, October 1, 1977. It also authorized the appropriation of a specific dollar amount needed to carry out the program levels specified and eliminated restrictions on the amount of certain assistance which may be outstanding and made other conforming changes.

Such limitations may serve to indicate to the Executive Branch the intent of Congress. However, when carried to the extreme found in Public Law 96-302 they become an unwarranted intrusion into the management prerogatives of the President and the Administrator.

In Public Law 96-302 Congress went a step further by including "floor" limitations of "not less than" a certain amount to be spent on a given program. In addition to impairing the Administrator's management flexibility, these limitations create additional problems when the appropriations provided do not match the legislative limitations. SBA by this initiative also therefore proposes a return to prior law when there was an open-ended authorization for appropriation for payment of salaries and expenses.

97TH CONGRESS
1ST SESSION

H. R. 2997

To amend the Small Business Act.

IN THE HOUSE OF REPRESENTATIVES

APRIL 2, 1981

Mr. MITCHELL of Maryland (for himself and Mr. MCDADDE) (by request) introduced the following bill; which was referred to the Committee on Small Business

A BILL

To amend the Small Business Act.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SEC. 101. Section 7(b) of the Small Business Act is
4 amended to read as follows:

5 “(b) The Administration also is empowered to the extent
6 and in such amounts as provided in advance in appropriation
7 Acts—

8 “(1)(A) to make such loans (either directly or in
9 cooperation with banks or other lending institutions
10 through agreements to participate on an immediate or

1 deferred (guaranteed) basis) as the Administration may
2 determine to be necessary or appropriate to repair, re-
3 habilitate, or replace property, real or personal, dam-
4 aged or destroyed by or as a result of floods, riots, or
5 civil disorders, or other catastrophes: *Provided*, That (i)
6 no loan or guarantee shall be extended unless the Ad-
7 ministrator finds that credit is not otherwise available
8 on reasonable terms and conditions; and (ii) such
9 damage and destruction is not compensated for by in-
10 surance or otherwise;

11 “(B) to refinance any mortgage or other lien
12 against a totally destroyed or substantially damaged
13 home or business concern: *Provided*, That (i) no loan
14 or guarantee shall be extended unless the Administra-
15 tor finds that credit is not otherwise available on rea-
16 sonable terms and conditions; (ii) such property is to be
17 repaired, rehabilitated, or replaced; (iii) the amount re-
18 financed shall not exceed the amount of physical loss
19 sustained; and (iv) such amount shall be reduced to the
20 extent such mortgage or lien is satisfied by insurance
21 or otherwise;

22 “(2) to make such loans (either directly or in co-
23 operation with banks or other lending institutions
24 through agreements to participate on an immediate or
25 deferred (guaranteed) basis) as the Administration may

1 . determine to be necessary or appropriate to any small
2 business concern located in an area affected by a disas-
3 ter, if the Administration determines that the concern
4 has suffered a substantial economic injury as a result of
5 such disaster and if such disaster constitutes—

6 “(A) a major disaster, as determined by the
7 President under the Act entitled ‘An Act to au-
8 thorize Federal assistance to States and local gov-
9 ernments in major disasters, and for other pur-
10 poses’, approved September 30, 1950, as amend-
11 ed (42 U.S.C. 1855-1855g), or

12 “(B) a disaster as determined by the Admin-
13 istrator of the Small Business Administration pur-
14 suant to the Disaster Relief Act of 1970.

15 “(C) No loan or guarantee shall be extended
16 pursuant to this paragraph (2) unless the Adminis-
17 trator finds that credit is not otherwise available
18 on reasonable terms and conditions.

19 “(3) No loan under this subsection, including re-
20 newals and extensions thereof, may be made for a
21 period or periods exceeding thirty years: *Provided,*
22 That the Administrator may consent to a suspension in
23 the payment of principal and interest charges on, and
24 to an extension in the maturity of, the Federal share of
25 any loan under this subsection for a period not to

1 exceed five years, if (A) the borrower under such loan
2 is a homeowner or a small business concern, (B) the
3 loan was made to enable (i) such homeowner to repair
4 or replace his home, or (ii) such concern to repair or
5 replace plant or equipment which was damaged or de-
6 stroyed as the result of a disaster meeting the require-
7 ments of clause (A) or (B) of paragraph (2) of this sub-
8 section, and (C) the Administrator determines such
9 action is necessary to avoid severe financial hardship:
10 *Provided further*, That the provision of paragraph (1)
11 of subsection (c) of this section shall not be applicable
12 to any such loan having a maturity in excess of twenty
13 years. Notwithstanding the provisions of any other
14 law, the interest rate on the Federal share of any loan
15 made under this subsection (b) shall be the rate pre-
16 scribed in the Administrator but not be less than a rate
17 determined by the Secretary of the Treasury taking
18 into consideration the current average market yield on
19 outstanding marketable obligations of the United States
20 with remaining periods to maturity comparable to the
21 average maturities of such loans plus an additional
22 charge of not to exceed 1 per centum per annum as
23 determined by the Administrator, and adjusted to the
24 nearest one-eighth of 1 per centum. The interest rate
25 for loans made under paragraphs (1) and (2) hereof

1 shall not be less than the rate of interest which is in
2 effect at the time of the making of the loan: *Provided*
3 *further*, That no loan under paragraphs (1) and (2)
4 thereof shall be made, either directly or in cooperation
5 with banks or other lending institutions through agree-
6 ments to participate on an immediate or deferred basis,
7 if the total amount outstanding and committed to the
8 borrower under such subsection would exceed
9 \$500,000 for each disaster, unless an applicant consti-
10 tutes a major source of employment in an area suffer-
11 ing a disaster, in which case the Administration, in its
12 discretion, may waive the \$500,000 limitation.

13 “(4) A State grant made on or prior to July 1,
14 1979, shall not be considered compensation for the
15 purpose of applying the provisions of subsection (b) of
16 section 315 of Public Law 93-288 (42 U.S.C. 5155)
17 to a disaster loan under paragraph (1) or (2) of this
18 subsection, or one made pursuant to the former para-
19 graph (4) of this subsection.”

20 SEC. 102. CONFORMING CHANGES.—(a) Sections 2(b),
21 7(c)(3), 7(f), 7(g), and 18 of the Small Business Act are
22 hereby repealed.

23 (b) Section 4(c)(1)(A) is amended by deleting “7(b)(1),
24 7(b)(2), 7(b)(3), 7(b)(4), 7(b)(5), 7(b)(6), 7(b)(7), 7(b)(8), 7(c)(2),

1 and 7(g) of this Act" and substituting "7(b)(1) and 7(b)(2) of
2 this Act".

3 (c) Section 4(c)(2)(A) is amended by deleting "7(b)(1),
4 7(b)(2), 7(b)(3), 7(b)(4), 7(b)(5), 7(b)(6), 7(b)(7), 7(b)(8), 7(c)(2),
5 and 7(g) of this Act" and substituting "7(b)(1) and 7(b)(2) of
6 this Act".

7 (d) Sections 2(c), 2(d), and 2(e) of the Small Business
8 Act are hereby redesignated sections 2(b), 2(c), and 2(d); and
9 sections 19 and 20 of the Small Business Act are hereby
10 renumbered sections 18 and 19.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., March 25, 1981.

HON. THOMAS P. O'NEILL, Jr.,
Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Enclosed for the consideration of the Congress is a draft bill, "To amend the Consolidated Farm and Rural Development Act and the Small Business Act."

This draft bill, which represents a joint effort of this Department and the Small Business Administration, is part of the President's Program for Economic Recovery and his Fiscal Year 1982 Budget Revisions. We strongly recommend its enactment.

Title I of the draft bill would amend the Consolidated Farm and Rural Development Act by:

(1) deleting language in Section 307(a)(3) to remove the 5 percent interest rate ceiling on Section 310D farm ownership loans to limited resource producers;

(2) deleting Section 310D which authorizes farm ownership loans to limited resource producers meeting certain requirements;

(3) amending subsection (a) of Section 321 to require that emergency loans be limited to amounts provided in advance in appropriation acts;

(4) deleting Subsection (b) and paragraph (d)(2) of Section 321 which authorize emergency loans for the amount of actual loss to those producers who can obtain credit elsewhere;

(5) amending paragraph (1) in Section 324(b) to remove language relating to the interest rate on emergency loans for the amount of actual loss to those producers who can obtain credit elsewhere, and to amend the language relating to the interest rate on emergency loans for the amount of actual loss to those producers who cannot obtain credit elsewhere to remove the 5 percent interest rate ceiling on such loans and provide instead for a rate based on the cost of money to the Government;

(6) amending Section 333(c) by deleting the provision referring to the limited resource borrower in the graduation test; and

(7) deleting the last sentence of Section 346(b)(1) which requires that at least 25 percent of the annual appropriation for insured loans go to limited resources producers.

Under existing law, limited resource producers may qualify for 5 percent interest rates on farm ownership loans. This reduced rate applies to the first three years of the loan, after which the borrower may be asked to pay the regular rate. The Administration believes that such a large subsidy runs a serious risk of encouraging inefficient production, abnormal risk-taking, and over-extension.

The existing subsidy on emergency loans for the amount of actual loss to those who cannot obtain credit elsewhere tends to encourage production in high-risk areas, and bears little relationship to the financial status of borrowers or the economic burden imposed on such borrowers as a result of disasters. To a lesser extent, the same situation exists for those borrowers who can obtain credit elsewhere. Such borrowers may seek emergency loans to reduce their interest costs where prevailing market rates are higher than the cost of money to the Government rate which already applies to such loans. The Administration believes that disaster assistance can best be provided through private insurance or through Federal crop insurance which is being expanded in response to recently enacted PL 96-365.

Lifetime savings in Federal costs for eliminating reduced interest rates on loans to limited resource producers are estimated to be \$13.5 million per \$100 million in farm ownership loans to such producers. This estimate reflects the reduced rate of interest for three years, which would be the minimum time limited resource producers now receive the reduced rate.

Lifetime savings in Federal cost for eliminating the subsidy on emergency loans for the amount of actual loss to producers who cannot obtain credit elsewhere are estimated to be \$60 million per \$100 million in such loans. This estimate covers about seven years which with certain exceptions, is the maximum term of emergency loans for non-real estate purposes. The higher rate of interest would probably result in a reduced demand for such loans. However, no estimate of this effect is available.

The elimination of emergency loans to those producers who can obtain credit elsewhere would not result in any savings in Federal (subsidy) costs. However, it would reduce the emergency loan program level by about \$400 million in a typical year.

Requiring that emergency loans be limited to amounts provided in advance in appropriation acts would not prevent Congress from continuing to provide for such

loans on an as needed basis, but it would reinforce the fact that the emergency loan program is subject to the appropriations process.

Title II of the draft bill amends the Small Business Act. The Small Business Administration drafted Title II and the attached Statement of Need and Purpose, which explains its provisions. Title II would make changes to the Small Business Administration's disaster loan program similar to changes that Title I would make to this Department's emergency loss loan program, i.e., it would raise the interest rate for SBA disaster loans to the current cost of Treasury borrowing, and establish a credit elsewhere test for loan applicants. It would also remove SBA's authority to make disaster and regular Section 7(a) business loans to farmers. SBA's authority to make home and personal property loans would not be changed. There is no duplication of effort in this area. With its extensive network of field offices in rural areas and its long-standing expertise in dealing with the problems of farmers, the Farmers Home Administration is a more appropriate source of disaster assistance for farmers than the SBA. We estimate that increasing interest rates on SBA physical disaster loans will result in outlay savings of \$23 million in fiscal year 1982 and a total of \$347 million in fiscal years 1982 through 1986.

The Administration believes it is essential that these two titles be considered and enacted together, to ensure that farmers and other businessmen suffering from natural disasters receive equal treatment from their respective agencies.

An identical letter has been sent to the Speaker of the House of Representatives.

The Office of Management and Budget advises that enactment of this draft bill would be in accord with the President's program.

Sincerely,

JOHN R. BLOCK,
Secretary.

A BILL to amend the Consolidated Farm and Rural Development Act and the Small Business Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That

TITLE I—CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT AMENDMENTS

SEC. 101. The Consolidated Farm and Rural Development Act is amended:

(1) in section 307(a)(3) by deleting "loans (other than guaranteed loans) under section 310D of this title, and";

(2) by deleting section 310D;

(3) in section 321 by inserting in subsection (a) after the phrase "The Secretary shall make and insure loans under this subtitle" the words "only to the extent and in such amounts as provided in advance in appropriations acts", deleting subsection (b), and revising subsection (d) to read "(d) For the purposes of this subtitle 'aquaculture' means the husbandry of aquatic organisms under a controlled or selected environment.";

(4) in section 324(b) by amending paragraph (1) to read "(1) for loans or portions of loans up to the amount of the applicant's actual loss caused by the disaster, as limited under subsection (a)(1) of this section, the interest rate shall be the rate prescribed by the Secretary but not less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus an additional charge of not to exceed 1 per centum per annum as determined by the Secretary, and adjusted to the nearest one-eighth of 1 per centum; and";

(5) in section 333(c) by deleting "(or, in the case of a borrower under section 310D of this title, the borrower may be able to obtain a loan under section 302 of this title)"; and

(6) in section 346(b)(1) by deleting the last sentence which reads "Not more than 75 per centum of the insured loans authorized for farm ownership purposes and not more than 75 per centum of the insured loans authorized for farm operating purposes may be for applicants other than low-income, limited-resource borrowers."

TITLE II—SMALL BUSINESS ACT AMENDMENTS

SEC. 201. Section 7(b) of the Small Business Act is amended to read as follows:

"(b) The Administration also is empowered to the extent and in such amounts as provided in advance in appropriation acts—

"(1)(A) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred (guaranteed) basis) as the Administration may determine to be necessary or appropriate to repair, rehabilitate or replace property, real or personal, damaged or destroyed by or as a result of floods, riots or civil disorders, or other catastrophes: *Provided*, That (i) no loan or guarantee shall be extended unless the Administration finds that credit is not otherwise available on reasonable terms and conditions; and (ii) such damages and destruction is not compensated for by insurance or otherwise;

"(B) to refinance any mortgage or other lien against a totally destroyed or substantially damaged home or business concern: *Provided*, That (i) no loan or guarantee shall be extended unless the Administrator finds that credit is not otherwise available on reasonable terms and conditions; (ii) such property is to be repaired, rehabilitated or replaced; (iii) the amount refinanced shall not exceed the amount of physical loss sustained; and (iv) such amount shall be reduced to the extent such mortgage or lien is satisfied by insurance or otherwise;

"(2) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred (guaranteed) basis) as the Administration may determine to be necessary or appropriate to any small business concern located in an area affected by a disaster, if the Administration determines that the concern has suffered a substantial economic industry as a result of such disaster and if such disaster constitutes—

"(A) a major disaster, as determined by the President under the Act entitled "An Act to authorize Federal assistance to States and local governments in major disasters, and for other purposes", approved September 30, 1950, as amended (42 U.S.C. 1855-1855g), or

"(B) a disaster as determined by the Administrator of the Small Business Administration pursuant to the Disaster Relief Act of 1970.

"(C) No loan or guarantee shall be extended pursuant to this paragraph (2) unless the Administrator finds that credit is not otherwise available on reasonable terms and conditions.

"(3) No loan under this subsection, including renewals and extensions thereof, may be made for a period or periods exceeding thirty years: *Provided*, That the Administrator may consent to a suspension in the payment of principal and interest charges on, and to an extension in the maturity of, the Federal share of any loan under this subsection for a period not to exceed five years, if (A) the borrower under such loan is a homeowner or a small business concern, (B) the loan was made to enable (i) such homeowner to repair or replace his home, or (ii) such concern to repair or replace plant or equipment which was damaged or destroyed as the result of a disaster meeting the requirements of clause (A) or (B) of paragraph (2) of this subsection, and (C) the Administrator determines such action is necessary to avoid severe financial hardship: *Provided further*, That the provisions of paragraph (1) of subsection (c) of this section shall not be applicable to any such loan having a maturity in excess of twenty years. Notwithstanding the provisions of any other law, the interest rate on the Federal share of any loan made under this subsection (b) shall be the rate prescribed by the Administrator but not be less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans plus an additional charge of not to exceed one per centum per annum as determined by the Administrator, and adjusted to the nearest one eighth of one per centum. The interest rate for loans made under paragraphs (1) and (2) hereof shall not be less than the rate of interest which is in effect at the time of the making of the loan: *Provided further*, That no loan under paragraphs (1) and (2) thereof shall be made, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis, if the total amount outstanding and committed to the borrower under such subsection would exceed \$500,000 for each disaster, unless an applicant constitutes a major source of employment in an area suffering a disaster, in which case the Administration, in its discretion, may waive the \$500,000 limitation."

"(4) A State grant made on or prior to July 1, 1979, shall not be considered compensation for the purpose of applying the provisions of subsection (b) of section 315 of Public Law 93-288 (42 U.S.C. Sec. 5155) to a disaster loan under paragraph (1) or (2) of this subsection, or one made pursuant to the former paragraph (4) of this subsection."

SEC. 202. CONFORMING CHANGES

"(a) Sections 2(b), 7(c)(3), 7(f), 7(g), and 18 of the Small Business Act are hereby repealed."

"(b) Section 4(c)(1)(A) is amended by deleting "7(b)(1), 7(b)(2), 7(b)(3), 7(b)(4), 7(b)(5), 7(b)(6), 7(b)(7), 7(b)(8), 7(c)(2), and 7(g) of this Act" and substituting "7(b)(1) and 7(b)(2) of this Act."

"(c) Section 4(c)(2)(A) is amended by deleting "7(b)(1), 7(b)(2), 7(b)(3), 7(b)(4), 7(b)(5), 7(b)(6), 7(b)(7), 7(b)(8), 7(c)(2), and 7(g) of this Act" and substituting "7(b)(1) and 7(b)(2) of this Act."

"(d) Sections 2(c), 2(d), and 2(e) of the Small Business Act are hereby redesignated Sections 2(b), 2(c), and 2(d); and Sections 19 and 20 of the Small Business Act are hereby renumbered sections 18 and 19".

STATEMENT OF NEED AND PURPOSE FOR TITLE II

GENERAL STATEMENT

Existing legislation which authorizes Small Business Administration disaster and economic injury assistance loans to small business concerns has over the years grown dramatically. Section 7(b) of the Small Business Act, the basic authority for disaster lending assistance, is now virtually unworkable. It contains permanent as well as temporary authority and unnumbered paragraphs difficult to assimilate. It unnecessarily divides into several subprograms, triggered by a variety of Federal and other actions, a loan assistance program which for all practical purposes should be considered one program. In addition, it involves SBA in disaster assistance to agricultural enterprises notwithstanding the existence of duplicative authority and programs at the Department of Agriculture. It also requires SBA to make disaster loans to businesses regardless of their ability to obtain credit from other sources. For business borrowers that are not able to obtain credit elsewhere it requires SBA to make loans at deeply subsidized interest rates, thereby requiring SBA to combine a true loan (the original rationale for this program) with a grant.

Title II of this bill simplifies SBA's disaster and economic injury loan authority by eliminating certain existing statutory provisions and clarifying the remaining authority.

Title II of the bill eliminates sections 2(b), 7(b)(3), 7(b)(4), 7(b)(5), 7(b)(6), 7(b)(7), 7(b)(8), 7(b)(9), 18, and certain unnumbered paragraphs of section 7(b) of the Small Business Act, and creates a uniform interest rate for all loans made under the resultant disaster loan authority.

PHYSICAL DAMAGE LOAN AND ECONOMIC INJURY AUTHORITY

Specifically, section 7(b)(1) of the Small Business Act, which has traditionally been the basis for loans to replace and repair physical property lost or damaged as a result of disasters, would remain the basis for that authority. As part of the Administration's effort to restrict Federal credit activity to areas of greatest need, the legislation would narrow the focus of disaster loans. Assistance would not be available under this authority unless the applicant could not obtain credit elsewhere on reasonable terms and conditions. Section 7(b)(2) would continue to authorize the making of loans to business concerns which SBA determines have suffered substantial economic injury as a result of physical disaster as declared under certain pertinent triggering legislation, or pursuant to the provisions of the Small Business Act. This continues the authority under which physical disaster and economic injury loans are authorized at the present time. Again, a credit elsewhere test would be employed under this authority.

Title II would, however, eliminate the authority for the so-called nonphysical disaster loans presently authorized by subsection 7(b)(3)-(9) of the Small Business Act by eliminating those subsections. The nonphysical disaster provisions of the Act have evolved as a result of responses to specific problems facing business such as the adverse effect of military base closings and government regulations among others. Continuation of SBA's nonphysical disaster loan programs is not appropriate for the following well-founded reasons:

The broad authority for nonphysical disaster loans creates a major threat to the budget by suggesting that such assistance is an entitlement.

Nonphysical disaster loans dissipate SBA's budgetary authority for dealing with the more tangible effects of physical disasters.

The legislation authorizing nonphysical disaster assistance is based on the premise that Federal regulatory actions to protect general public health, safety, or wel-

fare should create compensable claims for private industry adversely affected by such regulations.

To the extent that financial assistance is justified to mitigate economic injury, such assistance can be provided through SBA's regular business loan program. Many of the nonphysical disaster loans are presently justified in terms of what are really business problems, and SBA's business loan programs could satisfy the need in those cases.

In addition, Title II would establish an interest rate for the SBA share of all disaster loans which would be uniform and would recover the cost of Treasury borrowing. This rate would still provide loans to those unable to obtain credit elsewhere at reasonable rates and at substantially lower costs than are available through private sources.

The rate established by Title II of the bill would be set at the time the loan is made, rather than at the time the disaster in question is declared, as is presently the case. This procedure is consistent with current banking practices.

Title II would also remove responsibility from SBA for making disaster and regular section 7(a) business loans to agricultural enterprises. This change would place sole responsibility for such lending with the Department of Agriculture's Farmers Home Administration. SBA's authority to make home and personal property loans to farmers would not be changed. There is no duplication of effort in this area.

Finally, Title II would retain an existing unnumbered provision of section 7 of the Small Business Act included in Public Law 96-302 that suspends the application of existing law which required that Federal disaster assistance for losses sustained as the result of a disaster should only cover losses not otherwise compensated by insurance or other sources in the case of assistance provided by the SBA disaster assistance program prior to July, 1979. Because certain cases covered by this provision remain in active status, it is necessary to retain this unnumbered provision.

U.S. SMALL BUSINESS ADMINISTRATION,
Washington, D.C., April 2, 1981.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Enclosed is a revised "Statement of Need and Purpose" to accompany Executive Communication 925. It contains technical corrections to the original one previously sent to you, and I would appreciate it if you would substitute this statement for the one you have already received.

Sincerely,

MICHAEL CARDENAS, Administrator.

Enclosure.

STATEMENT OF NEED AND PURPOSE FOR TITLE II

General statement

Existing legislation which authorizes Small Business Administration disaster and economic injury assistance loans to small business concerns has over the years grown dramatically. Section 7(b) of the Small Business Act, the basic authority for disaster lending assistance, is now virtually unworkable. It contains permanent as well as temporary authority and unnumbered paragraphs difficult to assimilate. It unnecessarily divides into several subprograms, triggered by a variety of Federal and other actions, a loan assistance program which for all practical purposes should be considered one program. In addition, it involves SBA in disaster assistance to agricultural enterprises notwithstanding the existence of duplicative authority and programs at the Department of Agriculture. It also authorizes SBA to make disaster loans to businesses regardless of their ability to obtain credit from other sources. For business borrowers that are not able to obtain credit elsewhere, it authorizes SBA to make loans at deeply subsidized interest rates, thereby requiring SBA to combine a true loan (the original rationale for this program) with a grant.

Title II of this bill simplifies SBA's disaster and economic injury loan authority by eliminating certain existing statutory provisions and clarifying the remaining authority.

Title II of the bill eliminates sections 2(b), 7(b)(3), 7(b)(4), 7(b)(5), 7(b)(6), 7(b)(7), 7(b)(8), 7(b)(9), 7(b), 18, and certain unnumbered paragraphs of section 7(b) of the Small Business Act, and creates a uniform interest rate for all loans made under the resultant disaster loan authority.

Physical damage loan and economic injury authority

Specifically, section 7(b)(1) of the Small Business Act, which has traditionally been the basis for loans to replace and repair physical property lost or damaged as a result of disasters, would remain the basis for that authority. As part of the Administration's effort to restrict Federal credit activity to areas of greatest need, the legislation would narrow the focus of disaster loans. Assistance would not be available under this authority unless the applicant could not obtain credit elsewhere on reasonable terms and conditions. Section 7(b)(2) would continue to authorize the making of loans to business concerns which SBA determines have suffered substantial economic injury as a result of physical disaster as declared under certain pertinent triggering legislation, or pursuant to the provisions of the Small Business Act. This continues the authority under which physical disaster and economic injury loans are authorized at the present time. Again, a credit elsewhere test would be employed under this authority.

Title II would, however, eliminate the authority for the so-called nonphysical disaster loans presently authorized by subsections 7(b)(3)-(9) of the Small Business Act by eliminating those subsections. The nonphysical disaster provisions of the Act have evolved as a result of responses to specific problems facing businesses such as the adverse effect of military base closings and government regulations among others. Continuation of SBA's nonphysical disaster loan program is not appropriate for the following reasons:

The broad authority for nonphysical disaster loans creates a major threat to the budget by suggesting that such assistance is an entitlement.

Nonphysical disaster loans dissipate SBA's budgetary authority for dealing with the more tangible effects of physical disasters.

The legislation authorizing nonphysical disaster assistance is based on the premise that Federal regulatory actions to protect general public health, safety, or welfare should create compensable claims for private industry adversely affected by such regulations.

To the extent that financial assistance is justified to mitigate economic injury, such assistance can be provided through SBA's regular business loan program. Many of the nonphysical disaster loans are presently justified in terms of what are really business problems, and SBA's business loan programs could satisfy the need in those cases.

In addition, Title II would establish an interest rate for the SBA share of all disaster loans which would be uniform and would recover the cost of Treasury borrowing. This rate would still provide loans to those unable to obtain credit elsewhere at reasonable rates and at substantially lower costs than are available through private sources.

The rate established by Title II of the bill would be set at the time the loan is made, rather than at the time the disaster in question is declared, as is presently the case. This procedure is consistent with current banking practices.

Title II would also remove responsibility from SBA for making disaster and regular section 7(a) business loans to agricultural enterprises. This change would place sole responsibility for such lending with the Department of Agriculture's Farmers Home Administration. SBA's authority to make home and personal property loans to farmers would not be changed. There is no duplication of effort in this area.

Finally, Title II would retain an existing unnumbered provision of section 7 of the Small Business Act included in Public Law 96-302 that suspends the application of existing law which requires that Federal disaster assistance for losses sustained as the result of a disaster should only cover losses not otherwise compensated by insurance or other sources in the case of assistance provided by the SBA disaster assistance program prior to July 1979. Because certain cases covered by this provision remain in active status it is necessary to retain this unnumbered provision.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SMALL BUSINESS,
Washington, D.C., April 3, 1981.

HON. MICHAEL CARDENAS,
Administrator, Small Business Administration,
Washington, D.C.

DEAR MR. ADMINISTRATOR: The Speaker has referred to the Committee your letter of April 2nd enclosing a revised "Statement of Need and Purpose" to accompany Executive Communication 925. Title II of the legislative request in this communication was introduced yesterday as H.R. 2997.

Our analysis of your revisions indicates that you are desirous of making four changes in your Statement of Need and Purpose.

First, you would substitute the word "authorizes" for the word "requires" in the sentence "It also requires SBA to make disaster loans to businesses regardless of their ability to obtain credit from other sources."

Second, you would substitute the word "authorizes" for the word "requires" in the sentence "For business borrowers that are not able to obtain credit elsewhere it requires SBA to make loans at deeply subsidized interest rates, thereby requiring SBA to combine a true loan (the original rationale for this program) with a grant."

Third, you would insert section 7(g) in the enumeration of loan programs being repealed.

Fourth, you would strike the words "well-founded" from the phrase "Continuation of SBA's nonphysical disaster loan program is not appropriate for the following well-founded reasons:"

After examination of these proposed changes we cannot concur with your conclusion that these are "technical corrections" and, accordingly, decline your request. We will, however, include both your original Statement of Need and Purpose and the revised one along with the correspondence pertaining thereto, in any publications, such as our hearing record on these proposals.

Best wishes,

PARRÉN J. MITCHELL, *Chairman.*

Union Calendar No. 104

97TH CONGRESS
1ST SESSION

H. R. 2998

[Report No. 97-150]

To consolidate and modify the terms of the Small Business Administration programs under sections 7(a), 7(e), 7(h), 7(i), and 7(l) of the Small Business Act and sections 501 and 502 of the Small Business Investment Act of 1958.

IN THE HOUSE OF REPRESENTATIVES

APRIL 2, 1981

Mr. MITCHELL of Maryland (for himself and Mr. McDade) (by request) introduced the following bill; which was referred to the Committee on Small Business

JUNE 16, 1981

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on April 2, 1981]

A BILL

To consolidate and modify the terms of the Small Business Administration programs under sections 7(a), 7(e), 7(h), 7(i), and 7(l) of the Small Business Act and sections 501 and 502 of the Small Business Investment Act of 1958.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 *That this Act may be cited as the "Small Business Budget*
4 *Reconciliation and Loan Consolidation/Improvement Act of*
5 *1981".*

6 *SEC. 2. Subsection (a) of section 7 of the Small Busi-*
7 *ness Act is amended to read as follows:*

8 *"(a) The Administration is empowered to the extent and*
9 *in such amounts as provided in advance in appropriation*
10 *Acts to make loans for plant acquisition, construction, con-*
11 *version, or expansion, including the acquisition of land, ma-*
12 *terial, supplies, equipment, and working capital, and to make*
13 *loans to any qualified small business concern, including*
14 *those owned by qualified Indian tribes, for the purposes of*
15 *this Act. Such financings may be made either directly or in*
16 *cooperation with banks or other financial institutions through*
17 *agreements to participate on an immediate or deferred (guar-*
18 *anteed) basis. These powers shall be subject, however, to the*
19 *following restrictions, limitations, and provisions:*

20 *"(1) No financial assistance shall be extended*
21 *pursuant to this subsection unless the financial assist-*
22 *ance applied for is not otherwise available on reason-*
23 *able terms from non-Federal sources. No immediate*
24 *participation may be purchased unless it is shown that*
25 *a deferred participation is not available; and no direct*

1 *financing may be made unless it is shown that a par-*
2 *ticipation is not available.*

3 *"(2) In agreements to participate in loans on a*
4 *deferred basis under this subsection, such participation*
5 *by the Administration, except as provided in paragraph*
6 *(6), shall be—*

7 *"(A) not less than 90 per centum of the bal-*
8 *ance of the financing outstanding at the time of*
9 *disbursement if such financing does not exceed*
10 *\$100,000; and*

11 *"(B) subject to the limitation in paragraph*
12 *(3)—*

13 *"(i) not less than 70 per centum nor*
14 *more than 90 per centum of the financing*
15 *outstanding at the time of disbursement if*
16 *such financing exceeds \$100,000 but is less*
17 *than \$714,285, and*

18 *"(ii) less than 70 per centum of the fi-*
19 *nancing outstanding at the time of disburse-*
20 *ment if such financing exceeds \$714,285:*

21 *Provided, That the Administration shall not use the*
22 *per centum of guarantee requested as a criterion to es-*
23 *tablish priorities in approving guarantee requests nor*
24 *shall the Administration reduce the per centum guar-*
25 *anteed to less than 90 per centum pursuant to subpara-*

1 *graph (B) other than by a determination made on each*
2 *application.*

3 *"(3) No loan under this subsection shall be made*
4 *if the total amount outstanding and committed (by par-*
5 *ticipation or otherwise) to the borrower from the revolv-*
6 *ing fund established by this Act would exceed*
7 *\$500,000: Provided, That no such loan made or effect-*
8 *ed either directly or in cooperation with banks or other*
9 *lending institutions through agreements to participate*
10 *on an immediate basis shall exceed \$350,000.*

11 *"(4) The rate of interest on financings made on a*
12 *deferred basis shall be legal and reasonable and the*
13 *rate of interest for the Administration's share of any*
14 *direct or immediate participation loan shall be the*
15 *average annual interest rate on all interest-bearing ob-*
16 *ligations of the United States then forming a part of*
17 *the public debt as computed at the end of the fiscal*
18 *year next preceding the date of the loan and adjusted*
19 *to the nearest one-eighth of 1 per centum plus an addi-*
20 *tional amount as determined by the Administration,*
21 *but not to exceed one-fourth of 1 per centum per*
22 *annum: Provided, That those loans to assist any public*
23 *or private organization for the handicapped or to assist*
24 *any handicapped individual as provided in paragraph*

1 (12) of this subsection, shall be 3 per centum per
2 annum.

3 “(5) No such loans including renewals and exten-
4 sions thereof may be made for a period or periods ex-
5 ceeding twenty-five years, except that such portion of a
6 loan made for the purpose of acquiring real property or
7 constructing, converting or expanding facilities may
8 have a maturity of twenty-five years plus such addi-
9 tional period as is estimated may be required to com-
10 plete such construction, conversion, or expansion.

11 “(6) All loans made under this subsection shall be
12 of such sound value or so secured as reasonably to
13 assure repayment: Provided, however, That—

14 “(A) for loans to assist any public or private
15 organization or to assist any handicapped individ-
16 ual as provided in paragraph (12) of this subsec-
17 tion any reasonable doubt shall be resolved in
18 favor of the applicant;

19 “(B) recognizing that greater risk may be as-
20 sociated with loans for energy measures as pro-
21 vided in paragraph (14) of this subsection, factors
22 in determining ‘sound value’ shall include, but
23 not be limited to, quality of the product or service;
24 technical qualifications of the applicant or his em-
25 ployees; sales projections; and the financial status

1 *of the business concern: Provided further, That*
2 *such status need not be as sound as that required*
3 *for general loans under this subsection; and*

4 *“(C) the Administration shall not decline to*
5 *participate in a loan on a deferred basis under*
6 *this subsection solely because such loan will be*
7 *used to refinance all or any part of the existing*
8 *indebtedness of a small business concern, unless*
9 *the Administration determines that—*

10 *“(i) the holder of such existing indebt-*
11 *edness is in a position likely to sustain a*
12 *loss if such refinancing is not provided, and*

13 *“(ii) if the Administration provides*
14 *such refinancing through an agreement to*
15 *participate on a deferred basis, it will be in*
16 *a position likely to sustain part or all of any*
17 *loss which would have otherwise been sus-*
18 *tained by the holder of the original indebted-*
19 *ness: Provided further, That the Administra-*
20 *tion may decline to approve such refinancing*
21 *if it determines that the loan will not benefit*
22 *the small business concern:*

23 *Provided, That on that portion of the loan used to*
24 *refinance existing indebtedness held by a bank or*
25 *other lending institution, the Administration shall*

1 *limit the amount of deferred participation to 80*
2 *per centum of the amount of the loan at the time*
3 *of disbursement: Provided further, That any au-*
4 *thority conferred by this subparagraph on the Ad-*
5 *ministration shall be exercised solely by the Ad-*
6 *ministration and shall not be delegated to other*
7 *than Administration personnel.*

8 *"(7) The Administration may defer payments on*
9 *the principal of such loans for a grace period and use*
10 *such other methods as it deems necessary and appro-*
11 *priate to assure the successful establishment and oper-*
12 *ation of such concern.*

13 *"(8) No amount of any guarantee fee shall be*
14 *paid by a small business receiving any loan pursuant*
15 *to this subsection.*

16 *"(9) Any loan made under this subsection (either*
17 *directly or in cooperation with banks or other lending*
18 *institutions through agreements to participate on an*
19 *immediate or deferred basis) may, upon the joint elec-*
20 *tion of the borrower, Administration, and lender, as the*
21 *case may be, provide for the payment of interest only*
22 *during the—*

23 *"(A) first two years of its term if such term*
24 *is at least eight years;*

1 “(B) first three years of its term if such term
2 is at least ten years; and

3 “(C) first four years of its term if such term
4 is at least fifteen years.

5 At the conclusion of the period of interest only pay-
6 ments, the loan agreement shall provide for amortiza-
7 tion of the loan principal in equal payments of princi-
8 pal and interest during the remainder of the term of
9 the loan. With respect to loans made under this para-
10 graph, a bank or lending institution may charge, in
11 addition to any interest, fee, or service charge other-
12 wise permissible pursuant to this Act and relevant reg-
13 ulations promulgated pursuant thereto, a one-time fee
14 of 1 per centum of the total amount of such loan,
15 which amount may be paid from the proceeds of such
16 loan.

17 “(10)(A) Any loan made under the authority of
18 this subsection by the Administration in cooperation
19 with a bank or other lending institution through an
20 agreement to participate on a deferred basis may, upon
21 the concurrence of the Administration, borrower, and
22 such bank or institution, have the term of such loan
23 extended or such loan refinanced with an extension of
24 its term: Provided, That the aggregate term of such ex-
25 tended or refinanced loan does not exceed the term per-

1 mitted pursuant to paragraph (5) and: Provided fur-
2 ther, That such extended loans, or refinancings shall
3 be repaid in equal installments of principal and inter-
4 est, except as provided in paragraph (9).

5 “(B) An additional service fee not exceeding 1 per
6 centum of the outstanding amount of the principal may
7 be paid by the borrower to the lender in consideration
8 for such lender extending the term or refinancing such
9 borrower's indebtedness if such extension or refinanc-
10 ing results in the term of such indebtedness exceeding
11 ten years.

12 “(C) The authority provided in this paragraph
13 and in paragraph (9) shall not be construed to other-
14 wise limit the authority of the Administration to set
15 terms and conditions of the loan.

16 “(11) The Administration may provide under this
17 subsection loans to finance residential or commercial
18 construction or rehabilitation for sale: Provided, how-
19 ever, That such loans shall not be used primarily for
20 the acquisition of land.

21 “(12) The Administration may provide under this
22 subsection loans to assist any public or private organi-
23 zation for the handicapped or to assist any handi-
24 capped individual in establishing, acquiring, or operat-
25 ing a small business concern.

1 “(13) The Administration may provide under this
2 subsection loans to any small business concern, or to
3 any qualified person seeking to establish such a con-
4 cern when it determines that such loan will further the
5 policies established in section 2(c) of this Act, with
6 particular emphasis on the preservation or establish-
7 ment of small business concerns located in urban or
8 rural areas with high proportions of unemployed or
9 low-income individuals, or owned by low-income indi-
10 viduals.

11 “(14) The Administration may provide under this
12 subsection loans to assist any small business concern,
13 including start up, to enable such concern to design ar-
14 chitecturally or engineer, manufacture, distribute,
15 market, install, or service energy measures: Provided,
16 however, That such loan proceeds shall not be used pri-
17 marily for research and development.

18 “(15) The Administration may provide under this
19 subsection financings to State and local development
20 companies for the purposes of, and subject to the re-
21 strictions in, title V of the Small Business Investment
22 Act of 1958.

23 “(16) The Administration may provide under this
24 subsection extensions and revolving lines of credit for
25 export purposes to enable small business concerns to

1 *develop foreign markets and for preexport financing:*
2 *Provided, however, That no such extension or revolving*
3 *line of credit may be made for a period or periods ex-*
4 *ceeding eighteen months. A bank or participating lend-*
5 *ing institution may establish the rate of interest on ex-*
6 *tensions and revolving lines of credit as may be legal*
7 *and reasonable.*

8 “(17)(A) *The Administration may guarantee*
9 *under this subsection loans to qualified employee trusts*
10 *with respect to a small business concern for the pur-*
11 *pose of purchasing stock of the concern under a plan*
12 *approved by the Administrator which, when carried*
13 *out, results in the qualified employee trust owning at*
14 *least 51 per centum of the stock of the concern.*

15 “(B) *The plan requiring the Administrator’s ap-*
16 *proval under subparagraph (A) shall be submitted to*
17 *the Administration by the trustee of such trust with its*
18 *application for the guarantee. Such plan shall include*
19 *an agreement with the Administrator which is binding*
20 *on such trust and on the small business concern and*
21 *which provides that—*

22 “(i) *not later than the date the loan guaran-*
23 *teed under subparagraph (A) is repaid (or as soon*
24 *thereafter as is consistent with the requirements of*
25 *section 401(a) of the Internal Revenue Code of*

1 1954), at least 51 per centum of the total stock of
2 such concern shall be allocated to the accounts of
3 at least 51 per centum of the employees of such
4 concerns who are entitled to share in such alloca-
5 tion,

6 “(ii) there will be periodic reviews of the role
7 in the management of such concern of employees
8 to whose accounts stock is allocated, and

9 “(iii) there will be adequate management to
10 assure management expertise and continuity.

11 “(C) In determining whether to guarantee any
12 loan under this paragraph, the individual business ex-
13 perience or personal assets of employee-owners shall
14 not be used as criteria, except inasmuch as certain em-
15 ployee-owners may assume managerial responsibilities,
16 in which case business experience may be considered.

17 “(D) For purposes of this paragraph, a corpora-
18 tion which is controlled by any other person shall be
19 treated as a small business concern if such corporation
20 would, after the plan described in subparagraph (B) is
21 carried out, be treated as a small business concern.

22 “(E) The Administration shall compile a separate
23 list of applications for assistance under this paragraph,
24 indicating which applications were accepted and which
25 were denied, and shall report periodically to the Con-

1 *gress on the status of employee-owned firms assisted by*
2 *the Administration."*

3 *SEC. 3. Section 3 of the Small Business Act is*
4 *amended by adding thereto the following subsections:*

5 *"(d) For purposes of section 7 of this Act, the term*
6 *'qualified Indian tribe' means an Indian tribe as defined in*
7 *section 4(a) of the Indian Self-Determination and Education*
8 *Assistance Act, which owns and controls 100 per centum of a*
9 *small business concern.*

10 *"(e) For purposes of section 7 of this Act, the term*
11 *'public or private organization for the handicapped' means*
12 *one—*

13 *"(1) which is organized under the laws of the*
14 *United States or of any State, operated in the interest*
15 *of handicapped individuals, the net income of which*
16 *does not inure in whole or in part to the benefit of any*
17 *shareholder or other individual;*

18 *"(2) which complies with any applicable occupa-*
19 *tional health and safety standard prescribed by the*
20 *Secretary of Labor; and*

21 *"(3) which, in the production of commodities and*
22 *in the provision of services during any fiscal year in*
23 *which it received financial assistance under this sub-*
24 *section, employs handicapped individuals for not less*

1 *than 75 per centum of the man-hours required for the*
2 *production or provision of the commodities or services.*

3 *"(f) For purposes of section 7 of this Act, the term*
4 *'handicapped individual' means a person who has a physical,*
5 *mental, or emotional impairment, defect, ailment, disease, or*
6 *disability of a permanent nature which in any way limits the*
7 *selection of any type of employment for which the person*
8 *would otherwise be qualified or qualifiable.*

9 *"(g) For purposes of section 7 of this Act, the term*
10 *'energy measures' includes—*

11 *"(1) solar thermal energy equipment which is*
12 *either of the active type based upon mechanically*
13 *forced energy transfer or of the passive type based on*
14 *convective, conductive, or radiant energy transfer or*
15 *some combination of these types;*

16 *"(2) photovoltaic cells and related equipment;*

17 *"(3) a product or service the primary purpose of*
18 *which is conservation of energy through devices or*
19 *techniques which increase the energy efficiency of ex-*
20 *isting equipment, methods of operation, or systems*
21 *which use fossil fuels, and which is on the Energy*
22 *Conservation Measures List of the Secretary of*
23 *Energy or which the Administrator determines to be*
24 *consistent with the intent of this subsection;*

1 “(4) equipment the primary purpose of which is
2 production of energy from wood, biological waste,
3 grain, or other biomass source of energy;

4 “(5) equipment the primary purpose of which is
5 industrial cogeneration of energy, district heating, or
6 production of energy from industrial waste;

7 “(6) hydroelectric power equipment;

8 “(7) wind energy conversion equipment; and

9 “(8) engineering, architectural, consulting, or
10 other professional services which are necessary or ap-
11 propriate to aid citizens in using any of the measures
12 described in paragraphs (1) through (7).”.

13 SEC. 4. Section 10(b) of the Small Business Act is
14 amended by striking the word “subsection” and all that fol-
15 lows through the end of subsection (b) and by inserting in
16 lieu thereof the following: “this Act. Such report shall pro-
17 vide such information separately on each type of loan made
18 under paragraphs (12) through (17) of section 7(a) and sepa-
19 rately for all other loan programs. In addition, the informa-
20 tion on loans shall be supplied on a monthly basis to the
21 Committee on Small Business of the Senate and the Com-
22 mittee on Small Business of the House of Representatives.”.

23 SEC. 5. Effective October 1, 1981, section 20 of the
24 Small Business Act is amended by striking all after subsec-
25 tion (a) and inserting in lieu thereof the following:

1 “(b) The following program levels are authorized for
2 fiscal year 1982:

3 “(1) For the programs authorized by section 7(a)
4 of this Act, the Administration is authorized to make
5 \$225,000,000 in direct and immediate participation
6 loans; and of such sum, the Administration is author-
7 ized to make \$15,000,000 in loans as provided in
8 paragraph (12), \$45,000,000 in loans as provided in
9 paragraph (13), and \$10,000,000 in loans as provided
10 in paragraph (14).

11 “(2) For the programs authorized by section 7(a)
12 of this Act and section 503 of the Small Business In-
13 vestment Act of 1958, the Administration is authorized
14 to make \$3,005,000,000 in deferred participation loans
15 and guarantees of debentures; and of such sum, the
16 Administration is authorized to make \$5,000,000 in
17 loans as provided in paragraph (12), \$50,000,000 in
18 loans as provided in paragraph (13), \$15,000,000 in
19 loans as provided in paragraph (14), and
20 \$150,900,000 in loans as provided in paragraph (15)
21 and guarantees of debentures as provided in section
22 503.

23 “(3) For the programs authorized by title III of
24 the Small Business Investment Act of 1958, the Ad-
25 ministration is authorized to make \$35,000,000 in

1 *direct purchases of debentures and preferred securities*
2 *and to make \$145,000,000 in guarantees of deben-*
3 *tures.*

4 *"(4) For the programs authorized by part B of*
5 *title IV of the Small Business Investment Act of*
6 *1958, the Administration is authorized to enter into*
7 *guarantees not to exceed \$1,200,000,000.*

8 *"(5) For the program authorized by section*
9 *7(b)(3) of this Act, the Administration is authorized to*
10 *enter into \$40,000,000 in loans, guarantees, and other*
11 *obligations or commitments. There are authorized to be*
12 *transferred from the disaster loan revolving fund such*
13 *sums as may be necessary and appropriate for admin-*
14 *istrative expenses of sections 7(b)(1) through 7(b)(3).*

15 *"(6) For the programs authorized in sections 404*
16 *and 405 of the Small Business Investment Act of*
17 *1958, the Administration is authorized to enter into*
18 *guarantees not to exceed \$250,000,000.*

19 *"(c) There are authorized to be appropriated to the Ad-*
20 *ministration for fiscal year 1982, \$623,228,000. Of such*
21 *sum, \$272,000,000 shall be available for the purpose of car-*
22 *rying out the programs referred to in paragraphs (1) through*
23 *(3); \$32,610,000 shall be available for the purpose of carry-*
24 *ing out the program referred to in paragraph (4);*
25 *\$87,000,000 shall be available for the purpose of carrying*

1 out the programs referred to in paragraph (5) and sections
2 7(b)(1) and 7(b)(2) of this Act; \$4,000,000 shall be available
3 for the purpose of carrying out the provisions of section 403
4 of the Small Business Investment Act of 1958; and
5 \$227,618,000 shall be available for salaries and expenses of
6 the Administration of which amount—

7 “(1) \$12,526,000 shall be available for procure-
8 ment and technical assistance; of which amount not
9 less than \$2,318,000 shall be available for technical
10 assistance, and of this amount not less than \$903,000
11 shall be used to pay for the continued development of a
12 procurement automated source system, and not less
13 than \$175,000 shall be used to develop and maintain
14 technology assistance centers which shall have direct or
15 indirect access to a minimum of thirty technology data
16 banks to define the technology problems or needs of
17 small businesses by searching technology data banks or
18 other sources to locate, obtain, and interpret the appro-
19 priate technology for such small business.

20 “(2) \$27,876,000 shall be available for manage-
21 ment assistance of which amount not less than
22 \$1,460,000 shall be used to sustain the small business
23 export development program and to employ not less
24 than seventeen staff people for the Office of Interna-
25 tional Trade, ten of whom shall serve as export devel-

1 *opment specialists with each of the Administration's re-*
2 *gional offices being assigned one such specialist.*

3 *"(3) \$5,668,000 shall be available for economic*
4 *research and analysis and advocacy, of which amount*
5 *not less than \$2,818,000 shall be used to employ at*
6 *least sixty-nine staff people for the Office of the Chief*
7 *Counsel for Advocacy to carry out research and those*
8 *functions prescribed by Public Law 94-305; not less*
9 *than \$1,000,000 shall be used to develop an external*
10 *small business data bank and small business index;*
11 *not less than \$850,000 shall be used for research; and*
12 *not less than \$1,000,000 shall be used to pay for de-*
13 *velopment and maintenance of an indicative small*
14 *business data base comprised of names and addresses*
15 *and related information.*

16 *"(4) \$22,566,000 shall be available for the Office*
17 *of Minority Small Business and Capital Ownership*
18 *Development, \$10,000,000 of which shall be used to*
19 *carry out those functions, including administrative ex-*
20 *penses, prescribed by section 7(j) of this Act.*

21 *"(5) \$11,546,000 shall be available for program*
22 *evaluation and data management with priority given to*
23 *the development of an automated internal Administra-*
24 *tion management data base, to the enhancement of the*

1 Administration's document tracking system, to the in-
2 stallation of terminals in Administration field offices.

3 “(d) The Administrator may transfer no more than 10
4 per centum of each of the total levels for salaries and ex-
5 penses authorized in paragraphs (1) through (5) of section
6 20(c) of this Act: Provided, however, That no level authorized
7 in such paragraphs may be increased more than 20 per
8 centum by any such transfers.

9 “(e) The following program levels are authorized for
10 fiscal year 1983:

11 “(1) For the programs authorized by section 7(a)
12 of this Act, the Administration is authorized to make
13 \$225,000,000 in direct and immediate participation
14 loans; and of such sum, the Administration is author-
15 ized to make \$15,000,000 in loans as provided in
16 paragraph (12), \$45,000,000 in loans as provided in
17 paragraph (13), and \$10,000,000 in loans as provided
18 in paragraph (14).

19 “(2) For the programs authorized by section 7(a)
20 of this Act and section 503 of the Small Business In-
21 vestment Act of 1958, the Administration is authorized
22 to make \$3,005,000,000 in deferred participation loans
23 and guarantees of debentures; and of such sum, the
24 Administration is authorized to make \$5,000,000 in
25 loans as provided in paragraph (12), \$50,000,000 in

1 loans as provided in paragraph (13), \$15,000,000 in
2 loans as provided in paragraph (14), and
3 \$150,000,000 in loans as provided in paragraph (15)
4 and guarantees of debentures as provided in section
5 503.

6 “(3) For the programs authorized by title III of
7 the Small Business Investment Act of 1958, the Ad-
8 ministration is authorized to make \$35,000,000 in
9 direct purchases of debentures and preferred securities
10 and to make \$145,000,000 in guarantees of deben-
11 tures.

12 “(4) For the programs authorized by part B of
13 title IV of the Small Business Investment Act of
14 1958, the Administration is authorized to enter into
15 guarantees not to exceed \$1,200,000,000.

16 “(5) For the program authorized by section
17 7(b)(3) of this Act, the Administration is authorized to
18 enter into \$40,000,000 in loans, guarantees, and other
19 obligations or commitments. There are authorized to be
20 transferred from the disaster loan revolving fund such
21 sums as may be necessary and appropriate for admin-
22 istrative expenses of sections 7(b)(1) through 7(b)(3).

23 “(6) For the programs authorized in sections 404
24 and 405 of the Small Business Investment Act of

1 1958, the Administration is authorized to enter into
2 guarantees not to exceed \$250,000,000.

3 “(f) There are authorized to be appropriated to the Ad-
4 ministration for fiscal year 1983, \$689,193,000. Of such
5 sum, \$364,000,000 shall be available for the purposes of car-
6 rying out the programs referred to in paragraphs (1) through
7 (3); \$34,980,000 shall be available for the purpose of carry-
8 ing out the program referred to in paragraph (4);
9 \$53,000,000 shall be available for the purpose of carrying
10 out the programs referred to in paragraph (5) and sections
11 7(b)(1) and 7(b)(2) of this Act; \$4,000,000 shall be available
12 for the purpose of carrying out the provisions of section 403
13 of the Small Business Investment Act of 1958; and
14 \$233,213,000 shall be available for salaries and expenses of
15 the Administration of which amount—

16 “(1) \$12,526,000 shall be available for procure-
17 ment and technical assistance; of which amount not
18 less than \$2,318,000 shall be available for technical
19 assistance, and of this amount not less than \$903,000
20 shall be used to pay for the continued development of a
21 procurement automated source system, and not less
22 than \$175,000 shall be used to develop and maintain
23 technology assistance centers which shall have direct or
24 indirect access to a minimum of thirty technology data
25 banks to define the technology problems or needs of

1 *small businesses by searching technology data banks or*
2 *other sources to locate, obtain and interpret the appro-*
3 *priate technology for such small business.*

4 *“(2) \$33,876,000 shall be available for manage-*
5 *ment assistance of which amount not less than*
6 *\$1,460,000 shall be used to sustain the small business*
7 *export development program and to employ not less*
8 *than seventeen staff people for the Office of Interna-*
9 *tional Trade, ten of whom shall serve as export devel-*
10 *opment specialists with each of the Administration’s re-*
11 *gional offices being assigned one such specialist.*

12 *“(3) \$5,668,000 shall be available for economic*
13 *research and analysis and advocacy, of which amount*
14 *not less than \$2,818,000 shall be used to employ at*
15 *least sixty-nine staff people for the office of the Chief*
16 *Counsel for Advocacy to carry out research and those*
17 *functions prescribed by Public Law 94-305; not less*
18 *than \$1,000,000 shall be used to develop an external*
19 *small business data bank and small business index;*
20 *not less than \$850,000 shall be used for research; and*
21 *not less than \$1,000,000 shall be used to pay for de-*
22 *velopment and maintenance of an indicative small*
23 *business data base comprised of names and addresses*
24 *and related information.*

1 “(4) \$22,566,000 shall be available for the Office
2 of Minority Small Business and Capital Ownership
3 Development, \$10,000,000 of which shall be used to
4 carry out those functions, including administrative ex-
5 penses, prescribed by section 7(j) of this Act.

6 “(5) \$11,546,000 shall be available for program
7 evaluation and data management with priority given to
8 the development of an automated internal Administra-
9 tion management data base, to the enhancement of the
10 Administration's document tracking system, and to the
11 installation of terminals in Administration field of-
12 fices.

13 “(g) The Administrator may transfer no more than 10
14 per centum of each of the total levels for salaries and ex-
15 penses authorized in paragraphs (1) through (5) of section
16 20(f) of this Act: Provided, however, That no level authorized
17 in such paragraphs may be increased more than 20 per
18 centum by any such transfers.

19 “(h) The following program levels are authorized for
20 fiscal year 1984:

21 “(1) For the programs authorized by section 7(a)
22 of this Act, the Administration is authorized to make
23 \$225,000,000 in direct and immediate participation
24 loans; and of such sum, the Administration is author-
25 ized to make \$15,000,000 in loans as provided in

1 paragraph (12), \$45,000,000 in loans as provided in
2 paragraph (13), and \$10,000,000 in loans as provided
3 in paragraph (14).

4 “(2) For the programs authorized by section 7(a)
5 of this Act and section 503 of the Small Business In-
6 vestment Act of 1958, the Administration is authorized
7 to make \$3,005,000,000 in deferred participation loans
8 and guarantees of debentures; and of such sum, the
9 Administration is authorized to make \$5,000,000 in
10 loans as provided in paragraph (12), \$50,000,000 in
11 loans as provided in paragraph (13), \$15,000,000 in
12 loans as provided in paragraph (14), and
13 \$150,000,000 in loans as provided in paragraph (15)
14 and guarantees of debentures as provided in section
15 503.

16 “(3) For the programs authorized by title III of
17 the Small Business Investment Act of 1958, the Ad-
18 ministration is authorized to make \$35,000,000 in
19 direct purchases of debentures and preferred securities
20 and to make \$145,000,000 in guarantees of debentures.
21

22 “(4) For the programs authorized by part B of
23 title IV of the Small Business Investment Act of
24 1958, the Administration is authorized to enter into
25 guarantees not to exceed \$1,200,000,000.

1 “(5) For the program authorized by section
2 7(b)(3) of this Act, the Administration is authorized to
3 enter into \$40,000,000 in loans, guarantees, and other
4 obligations or commitments. There are authorized to be
5 transferred from the disaster loan revolving fund such
6 sums as may be necessary and appropriate for admin-
7 istrative expenses of sections 7(b)(1) through 7(b)(3).

8 “(6) For the programs authorized in sections 404
9 and 405 of the Small Business Investment Act of
10 1958, the Administration is authorized to enter into
11 guarantees not to exceed \$250,000,000.

12 “(i) There are authorized to be appropriated to the Ad-
13 ministration for fiscal year 1984, \$837,816,000. Of such
14 sum, \$484,000,000 shall be available for the purpose of car-
15 rying out the programs referred to in paragraphs (1) through
16 (3); \$37,170,000 shall be available for the purpose of carry-
17 ing out the program referred to in paragraph (4);
18 \$74,000,000 shall be available for the purpose of carrying
19 out the programs referred to in paragraph (5) and sections
20 7(b)(1) and 7(b)(2) of this Act; \$4,000,000 shall be available
21 for the purpose of carrying out the provisions of section 403
22 of the Small Business Investment Act of 1958; and
23 \$238,646,000 shall be available for salaries and expenses of
24 the Administration of which amount—

1 “(1) \$12,526,000 shall be available for procure-
2 ment and technical assistance; of which amount not
3 less than \$2,318,000 shall be available for technical
4 assistance, and of this amount not less than \$903,000
5 shall be used to pay for the continued development of a
6 procurement automated source system, and not less
7 than \$175,000 shall be used to develop and maintain
8 technology assistance centers which shall have direct or
9 indirect access to a minimum of thirty technology data
10 banks to define the technology problems or needs of
11 small businesses by searching technology data banks or
12 other sources to locate, obtain, and interpret the appro-
13 priate technology for such small business.

14 “(2) \$38,876,000 shall be available for manage-
15 ment assistance of which amount not less than
16 \$1,460,000 shall be used to sustain the small business
17 export development program and to employ not less
18 than seventeen staff people for the Office of Interna-
19 tional Trade, ten of whom shall serve as export devel-
20 opment specialists with each of the Administration's re-
21 gional offices being assigned one such specialist.

22 “(3) \$5,668,000 shall be available for economic
23 research and analysis and advocacy, of which amount
24 not less than \$2,818,000 shall be used to employ at
25 least sixty-nine staff people for the Office of the Chief

1 *Counsel for Advocacy to carry out research and those*
2 *functions prescribed by Public Law 94-305; not less*
3 *than \$1,000,000 shall be used to develop an external*
4 *small business data bank and small business index;*
5 *not less than \$850,000 shall be used for research; and*
6 *not less than \$1,000,000 shall be used to pay for de-*
7 *velopment and maintenance of an indicative small*
8 *business data base comprised of names and addresses*
9 *and related information.*

10 “(4) \$22,566,000 shall be available for the Office
11 of Minority Small Business and Capital Ownership
12 Development, \$10,000,000 of which shall be used to
13 carry out those functions, including administrative ex-
14 penses, prescribed by section 7(j) of this Act.

15 “(5) \$11,546,000 shall be available for program
16 evaluation and data management with priority given to
17 the development of an automated internal Administra-
18 tion management data base, to the enhancement of the
19 Administration's document tracking system, to the in-
20 stallation of terminals in Administration field offices.

21 “(j) The Administrator may transfer no more than 10
22 per centum of each of the total levels for salaries and ex-
23 penses authorized in paragraphs (1) through (5) of section
24 20(i) of this Act: Provided, however, That no level authorized

1 in such paragraphs may be increased more than 20 per
2 centum by any such transfers."

3 *SEC. 6. Not later than February 28, 1984, and Febru-*
4 *ary 28, 1985, the Small Business Administration shall*
5 *submit to the Committee on Small Business of the Senate*
6 *and the Committee on Small Business of the House of Rep-*
7 *resentatives, a report which shall contain—*

8 (1) with respect to section 7(a)(5) of the Small
9 *Business Act—*

10 (A) the aggregate number, dollar value, and
11 *default rate of all loans (other than for the acqui-*
12 *sition of real property or for construction) having*
13 *a maturity not in excess of ten years, and the ag-*
14 *gregate number, dollar value, and default rate of*
15 *all loans made for the purpose of acquiring real*
16 *property or for construction having a maturity of*
17 *between ten years and twenty years plus such ad-*
18 *ditional period as is estimated may be required to*
19 *complete such construction; and*

20 (B) the aggregate number, dollar value, and
21 *default rate of all loans (other than for the acqui-*
22 *sition of real property or for construction) made*
23 *since the effective date of this section, having a*
24 *maturity in excess of ten years, and the aggregate*
25 *number, dollar value, and default rate of all loans*

1 *made for the purpose of acquiring real property or*
2 *for construction made since the effective date of*
3 *this section, having a maturity in excess of*
4 *twenty years plus such additional period as is es-*
5 *timated may be required to complete such*
6 *construction;*

7 *(2) with respect to section 7(a)(9) of the Small*
8 *Business Act, the aggregate number, dollar value, de-*
9 *fault rate, and geographic location of recipients of*
10 *loans made subject to the election described in section*
11 *7(a)(9)(A) of such Act;*

12 *(3) with respect to section 7(a)(10)(A) of the*
13 *Small Business Act—*

14 *(A) the aggregate number, dollar value, and*
15 *default rate of loans extended or refinanced pur-*
16 *suant to such section; and*

17 *(B) the average term of loans before such ex-*
18 *tension or refinancing and the average term of*
19 *such loans after such extension or refinancing;*
20 *and*

21 *(4) with respect to section 7(a)(6)(C) of the Small*
22 *Business Act, the aggregate number, dollar value, and*
23 *default rate of all loans refinanced pursuant to such*
24 *provision.*

1 *SEC. 7. Sections 7(e), 7(h), 7(i), and 7(l) of the Small*
2 *Business Act are hereby repealed.*

3 *SEC. 8. Section 4(c)(1)(B) of the Small Business Act*
4 *is amended by deleting "7(e), 7(h), 7(i), 7(l),".*

5 *SEC. 9. Section 502 of the Small Business Investment*
6 *Act of 1958 is amended by striking paragraphs (1) and (5)*
7 *and by renumbering paragraphs (2), (3), and (4) as para-*
8 *graphs (1), (2), and (3), respectively.*

9 *SEC. 10. Sections 7(a)(6)(C), 7(a)(9), and 7(a)(10) of*
10 *the Small Business Act as enacted herein are repealed Octo-*
11 *ber 1, 1985.*

12 *SEC. 11. Sections 7, 8, 9, and 13 of this Act shall be*
13 *effective October 1, 1981, and sections 10, 12, and 14 of this*
14 *Act shall be effective as provided therein. All other provisions*
15 *of this Act shall be effective immediately but shall not affect*
16 *any financing made, obligated, or committed under the*
17 *Small Business Act or the Small Business Investment Act*
18 *of 1958 prior to the effective date thereof.*

19 *SEC. 12. Effective October 1, 1981, section 7(a)(4) of*
20 *the Small Business Act is amended to read as follows:*

21 *"(4) The rate of interest on financings made on a*
22 *deferred basis shall be legal and reasonable and the*
23 *rate of interest for the Administration's share of any*
24 *direct or immediate participation loan shall not exceed*
25 *the current average market yield on outstanding mar-*

1 *ketable obligations of the United States with remain-*
2 *ing periods to maturity comparable to the average ma-*
3 *turities of such loans as computed at the end of the*
4 *fiscal year next preceeding the date of the loan and ad-*
5 *justed to the nearest one-eighth of 1 per centum, and*
6 *an additional amount as determined by the Adminis-*
7 *tration, but not to exceed 1 per centum per annum:*
8 *Provided, That for those loans to assist any public or*
9 *private organization for the handicapped or to assist*
10 *any handicapped individual as provided in paragraph*
11 *(12) of this subsection, the interest rate shall be 3 per*
12 *centum per annum."*

13 *SEC. 13. (a) Section 7(b) of the Small Business Act is*
14 *amended by striking paragraphs (3) through (9) and insert-*
15 *ing in lieu thereof the following:*

16 *"(3) to make such loans (either directly or in co-*
17 *operation with banks or other lending institutions*
18 *through agreements to participate on an immediate or*
19 *deferred basis) as the Administration may determine to*
20 *be necessary or appropriate to assist any small busi-*
21 *ness concern in effecting additions to, alterations in, or*
22 *reestablishment in the same or a new location of its*
23 *plant, facilities, or methods of operation made neces-*
24 *sary by direct action of the Federal Government or as*
25 *a consequence of Federal Government action or to meet*

1 requirements or restrictions imposed on such concern
2 under any Federal law heretofore or hereafter enacted
3 or any State law enacted in conformity therewith, or
4 any regulation or order of a duly authorized Federal,
5 State, regional, or local agency issued in conformity
6 with such Federal law, if the Administration deter-
7 mines that such concern is likely to suffer substantial
8 economic injury or be unable to market a product with-
9 out assistance under this paragraph: *Provided, That*
10 the maximum loan made to any small business con-
11 cern under this paragraph shall not exceed \$500,000
12 and the amount thereof shall be based solely on a de-
13 termination made on each application.”.

14 (b) Section 4(c)(1) of the Small Business Act is amend-
15 ed by striking all of subparagraph (A) after “7(b)(3),” and
16 by inserting in lieu thereof “and 7(c)(2) of this Act; and”.

17 (c) Section 7(g) of the Small Business Act is hereby
18 repealed.

19 SEC. 14. Section 7(c) of the Small Business Act is
20 amended—

21 (1) by striking from paragraph (3)(A) “3 per-
22 cent” and by inserting “5 percent”;

23 (2) by striking from paragraph (3)(B) the words
24 “5 percent per annum; and” and by inserting the fol-
25 lowing: “7 percent per annum: *Provided, That* such

1 loans shall be made in amounts not to exceed 85 per
2 centum of the amount determined pursuant to subpara-
3 graph (D);”;

4 (3) by striking from paragraph (3)(C) “Provided,
5 That three” and by inserting the following: “Provided,
6 That such loans shall be limited to \$100,000 to each
7 borrower for each disaster and shall be made in
8 amounts equal to 85 per centum of the amount deter-
9 mined pursuant to subparagraph (D): Provided fur-
10 ther, That two”; and

11 (4) by striking the period at the end of paragraph
12 (3)(C) and inserting “; and” and by adding the
13 following:

14 “(D) Subject to the dollar and per centum
15 limitations in paragraphs (A) through (C), loans
16 made to repair or replace damaged or destroyed
17 property shall be made in amounts equal to the
18 entire amount of the injury, loss or damage not
19 compensated for by insurance or otherwise unless
20 the applicant requests a lesser amount. All such
21 loans shall be subject, however, to the extent and
22 in such amounts as are provided in advance in
23 appropriations Acts.”

24 (b) The amendments made by this section shall be effec-
25 tive October 1, 1981, as to disasters commencing on or after

1 such date. This section shall not apply to any loans made or
2 to be made on account of disasters commencing prior to such
3 date.

4 *SEC. 15. Section 4(c)(5)(B)(i) of the Small Business*
5 *Act is amended to read as follows:*

6 “(B)(i) The Administration shall sell notes or certifi-
7 cates evidencing beneficial ownership in blocks of notes for
8 loans made under this Act which, in addition to funds appro-
9 priated pursuant to section 20 of this Act, will provide suffi-
10 cient amounts for the Administration to carry out disaster
11 loan programs under section 7(b) of \$733,500,000 in fiscal
12 year 1982, \$770,500,000 in fiscal year 1983 and
13 \$817,500,000 in fiscal year 1984 and to carry out all other
14 programs at the full amounts provided for each year in sec-
15 tion 20 of this Act. Sale of such notes or certificates by the
16 Administration shall be treated as a sale of assets for the
17 purposes of the Budget and Accounting Act of 1921. The
18 Administration shall transfer from the disaster loan fund to
19 the business loan and investment fund such sums as may be
20 necessary to carry out the full amounts provided in section
21 20 of this Act for programs funded from the business loan
22 and investment fund.”.

23 *SEC. 16. Section 504 of title 5, United States Code, is*
24 *amended—*

1 (1) by adding at the end of subsection (a)(1) the
2 following: "No award shall be made under this section
3 unless—

4 "(A) the prevailing party would have suffered a
5 pecuniary loss in excess of \$500 in his individual ca-
6 pacity and not as a member or representative of an or-
7 ganization or group; or

8 "(B) the prevailing party was engaged in carry-
9 ing on a trade or business for profit where the amount
10 in controversy is in excess of \$500 in an adversary
11 adjudication and was directly related to the conduct of
12 such trade or business; or

13 "(C) the prevailing party was engaged in carry-
14 ing on a trade or business for profit and the adjudica-
15 tion involves a violation of the Regulatory Flexibility
16 Act (Public Law 96-354).";

17 (2) by inserting in subsection (a)(2) after the first
18 sentence the following: "An itemized statement for an
19 attorney's fees shall be accompanied by an affidavit of
20 the attorney affirming that the fees charged were com-
21 puted in accordance with his routine and customary
22 rates for work of a similar nature.";

23 (3) by inserting in subsection (a)(3) after the first
24 sentence the following: "The amount to be awarded in

1 any instance, however, shall not be disproportionate to
2 the amount in controversy.”;

3 (4) by inserting at the end of subsection (a) the
4 following new paragraph:

5 “(4) Any award under this section shall be limited to
6 the amount of any legally enforceable obligation that the
7 party would have been required to pay in the absence of an
8 award under the Equal Access to Justice Act.”;

9 (5) by striking clauses (i) and (ii) from subsection
10 (b)(1)(B) and inserting the following: “(i) any individ-
11 ual whose net worth exceeded \$1,000,000 at the time
12 the adversary adjudication was initiated, and any
13 owner of an unincorporated business, or any partner-
14 ship, corporation, association, or organization whose
15 net worth exceeded \$5,000,000 at the time the adver-
16 sary adjudication was initiated; and (ii) any owner of
17 an unincorporated business, or a partnership, corpora-
18 tion, association, or organization having more than
19 500 employees at the time the adversary adjudication
20 was initiated.”; and

21 (6) by striking subsection (d)(1) and inserting the
22 following:

23 “(d)(1) Fees and other expenses awarded under this sec-
24 tion shall be paid by the particular agency over which the
25 party prevails from any sums appropriated to such agency,

1 *except that no sums may be appropriated to any such agency*
2 *specifically for the purpose of paying fees and other expenses*
3 *awarded under this section."*

4 *SEC. 17. Section 2412 of title 28, United States Code,*
5 *is amended—*

6 *(1) by striking from subsections (a) and (b) "or*
7 *any agency and any official of the United States"*
8 *each place it appears and inserting "or any agency or*
9 *any official of the United States";*

10 *(2) by adding at the end of subsection (d)(1)(A)*
11 *the following: "No award shall be made under this*
12 *subsection unless—*

13 *"(i) The prevailing party would have suffered a*
14 *pecuniary loss in excess of \$500 in his individual ca-*
15 *pacuity and not as a member or representative of an or-*
16 *ganization or group; or*

17 *"(ii) the prevailing party was engaged in carrying*
18 *on a trade or business for profit where the amount in*
19 *controversy in the adversary adjudication was directly*
20 *related to the conduct of such trade or business; or*

21 *"(iii) the prevailing party was engaged in carry-*
22 *ing on a trade or business for profit and the action in-*
23 *volves a violation of the Regulatory Flexibility Act*
24 *(Public Law 96-354).";*

1 (3) by inserting after the first sentence in subsec-
2 tion (d)(1)(B) the following: "An itemized statement
3 for an attorney's fees shall be accompanied by an affi-
4 davit of the attorney affirming that the fees charged
5 were computed in accordance with his routine and cus-
6 tomary rates for work of a similar nature.";

7 (4) by adding at the end of subsection (d)(1)(C)
8 the following: "The amount to be awarded in any in-
9 stance, however, shall not be disproportionate to the
10 amount in controversy.";

11 (5) by striking all of subparagraph (B) of subsec-
12 tion (d)(2) after the word "filed," in clause (i) and in-
13 serting in lieu thereof the following: "or (ii) any owner
14 of an incorporated business or any partnership, corpo-
15 ration, association, or organization whose net worth did
16 not exceed \$5,000,000 at the time the civil action was
17 filed, but 'party' does not include any owner of an un-
18 incorporated business, or a partnership, corporation,
19 association, or organization having more than five hun-
20 dred employees at the time the civil action was filed;
21 and"; and

22 (6) by striking all of subparagraph (A) of subsec-
23 tion (d)(4) and inserting the following:

24 "(4)(A) Fees and other expenses awarded under this
25 subsection shall be paid by any agency issuing an order over

1 *which the party prevails from any funds made available to*
2 *the agency, by appropriation or otherwise, except that no*
3 *sums may be appropriated to any such agency specifically for*
4 *the purpose of paying fees and other expenses under this sub-*
5 *section."*

Amend the title so as to read: "A bill to accomplish budget reconciliation, to provide the Small Business Administration with additional authority to assist small business concerns in obtaining financing and for other purposes."

97TH CONGRESS
1ST SESSION

H. R. 2781

To amend the Small Business Act to provide that any change in regulations affecting the disaster loan provisions of such Act shall not apply to applications for disaster loan assistance received before the effective date of the change.

IN THE HOUSE OF REPRESENTATIVES

MARCH 24, 1981

Mr. ALEXANDER introduced the following bill; which was referred to the Committee on Small Business

A BILL

To amend the Small Business Act to provide that any change in regulations affecting the disaster loan provisions of such Act shall not apply to applications for disaster loan assistance received before the effective date of the change.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 That (a) subsection (c) of section 7 of the Small Business Act
- 4 (15 U.S.C. 636(c)) is amended by adding at the end thereof
- 5 the following new paragraph:
- 6 “(4) Notwithstanding section 5(b)(6) and any other pro-
- 7 vision of law, any application for assistance under paragraph

1 (1), (2), or (4) of subsection (b) shall be acted upon by the
2 Administration under the rules and regulations in effect on
3 the date such application is received by the Administration.
4 For purposes of the preceding sentence, the determination of
5 the rules and regulations in effect on a certain date shall be
6 made without regard to any rule or regulation prescribed
7 after such date.”.

8 (b) The amendment made by subsection (a) shall apply
9 to applications received after December 31, 1980.

Mr. MITCHELL. The ranking minority member is on the way.

I will turn to my friend, Mr. Addabbo, if he has an opening statement.

OPENING STATEMENT OF HON. JOSEPH P. ADDABBO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. ADDABBO. Thank you very much, Mr. Chairman. I appreciate your yielding. I appreciate your calling this hearing at this present time to look into the administration's proposal for making a number of very critical policy changes which are expected to have an impact on the Nation's small business community.

I want to personally congratulate our new Administrator, Mr. Cardenas, and wish him well. It's a great challenge, as he knows and I know from his background he will give it the full responsibility and full attention it requires.

I can look forward to working with you. I have been a member of the subcommittee for nearly 16 years and we have worked with the Administrators, no matter what administration it is or what party it might be because we feel that small business knows no party and it should know our political motives only are helping the small business community.

As to the subject of these hearings, the administration's bill to consolidate the section 7 lending programs and cut back on disaster assistance, I would like to mention a few things. First, as member of this committee for many years I have seen small businesses make some progress in getting the Federal Government to recognize the great contribution they continue to make to the vitality of our Nation's economy. One way we have done this is by providing, by statute, for programs which help reduce the impediments felt by small business within the greater business community—impediments such as the scarcity of credit and capital opportunities otherwise available to large businesses.

It is important for us to keep in mind that these programs for offsetting the special advantages of large businesses, were made over many years of deliberation—hearings, meetings, letters, and phone calls and we cannot possibly accept massive reductions in these programs, especially not if there are not truly compelling reasons for doing so.

It is not enough for the administration to claim that an improved economy will benefit all businesses. Past history has proven that this is just not so. We must be assured that the small business community, the very backbone of our economy, is not hurt by these proposed changes because if they are, then our economy as a whole is also doomed.

Second, I am not at all convinced that the administration's proposal for amending the Small Business Act will be in the best interest of our Nation's economy. Each loan program to be consolidated was enacted in response to a specific problem faced by small businesses. The fact of the matter is that the money just was not available in the private sector for the handicapped, the socially and economically disadvantaged firms, or to support energy conservation.

In addition, a change in interest rates to reflect market rates appears to be a step backward for small businesses in their struggle to attain even a semblance of the type of capital generation opportunities only available to large businesses.

With these reservations voiced, Mr. Cardenas, I look forward to hearing from you about these proposals to see how the Small Business Administration views the impact of the administration's proposal on small business.

I hope that you are able to speak not for the Office of Management and Budget but for the Small Business Administration and its constituents, the small business community.

Mr. Administrator, we have seen too often that small business has been gradually shunted aside and this committee over the years has fought to safeguard that very important segment of our country. Our economy is made up, by 80 percent, of small businesses and I am concerned with the many new regulations and new directives that are coming forward from this administration relative to small businesses.

I would hope that as you assume your awesome responsibilities that you carefully review the reasons why the Small Business Administration came about, why the law was enacted, why the various sections of the law were enacted. The direct loan program. All these programs as I said earlier in my statement were enacted because there was a need, a failure of the economy, a failure of business, a failure of big business, a failure of various agencies, a failure of the Government to provide aid to protect our small business people, to give them a chance to become a part of the mainstream.

We have seen, over the years, that as small business expands and grows our economy grows. Competition grows. Prices to the Government are reduced because of greater competition. So I would ask you and I would charge you that under the law you are the sole advocate of the small businessman. He looks to you and unless he finds that hope there, he is lost.

I know your background and I know that you have worked with the small business community, in the small business community and I sincerely hope that you will not be overwhelmed by what I call the "Office of Meddling"—known as OMB. We will cooperate with you, we will work with you. If you need any further tools I know the chairman will be only too happy to provide them for you.

So again I wish you well and look forward to a very fruitful administration for our small business community.

Mr. MITCHELL. Mr. Cardenas, when the ranking minority member arrives, at an appropriate time we will interrupt and let him make his statement but for now we ask you to proceed with your statement.

Mr. ADDABBO. Mr. Chairman, may I?

Mr. MITCHELL. Surely.

Mr. ADDABBO. Mr. Administrator—not because of lack of interest but only because I sit over on Defense where I try to save money so we can use it for other programs—I may not be able to stay for your full presentation but that will not mean that I have any less interest in it.

Mr. CARDENAS. I understand.

Mr. MITCHELL. Thank you. If you will proceed, please?

TESTIMONY OF MICHAEL CARDENAS, ADMINISTRATOR, SMALL BUSINESS ADMINISTRATION; ACCOMPANIED BY EDWIN HOLLOWAY, ACTING ASSOCIATE ADMINISTRATOR FOR FINANCIAL ASSISTANCE, CHARLES R. HERTZBERG, DIRECTOR, OFFICE OF BUSINESS LOANS, AND MARTIN D. TECKLER, LEGISLATIVE COUNSEL

Mr. CARDENAS. Thank you both for your kind words.

Mr. Chairman and distinguished members of this committee and the staff, I appreciate the opportunity to discuss with you our plans for the future direction of SBA.

A little more than 1 week ago I sat in a similar chair before the Senate committee for confirmation as Administrator. The chairman of that committee has accused SBA of mismanagement, abuse, waste, and fraud. The chairman of the Senate committee in January had informed his members that "for too long we had paid lip service to small business . . . we talk a lot about small business being in the endangered species category." He expressed a sentiment to which I fully subscribe: If the SBA is to fulfill its mission, we must scrutinize our agency's performance and areas of management assistance, procurement assistance, advocacy, and loans.

Mr. Chairman, and members of this subcommittee, I feel SBA should be maintained as an independent agency and I intend to be the chief advocate for small business in the United States.

I have been quoted in the press as saying that I wanted to change the image of SBA. I believe that SBA must serve the entire business community and not a selected few or chosen few.

Much of the criticism of the SBA has come from within the small business community itself. Many small businesses are barely succeeding and are in desperate need of new capital and yet they find themselves at a competitive disadvantage as a result of their Government's own policies. A small business may find itself in competition with higher interest than its competitor down the street who qualifies for an SBA subsidized direct loan.

Criticisms of the current legislation have led to cries from some for abolishment of the whole system. They are not "partisan" cries nor are they "racially biased" cries. They have been made by representatives of all races, all parties, and all segments of business. The criticism supports revisions of the SBA's course.

Let us turn to the more positive aspects of what we can do to improve the service that Congress intended SBA to provide.

Section 7 of the Small Business Act gives the administration six business loan programs. The six vary regarding eligibility, amount of funds available, maturity, and interest rate. Current legislation is inconsistent. It provides unequal terms and conditions for assistance under each of the programs.

For example, if a business person were to request a regular direct loan from SBA under section 7, the interest rate in fiscal year 1981 would be approximately 9¼ percent, however, if that same business person qualified for a guaranteed loan under section 7, the interest rate on the loan would be approximately 19 percent.

Under SBA's direct lending program, we have made about 5,000 to 6,000 direct loans a year in a small business community of perhaps 12 to 14 million. We make these direct loans at a highly subsi-

dized interest rate, currently $9\frac{1}{4}$ percent which is about half the going market rate in recent months and less than the cost of the money to the Treasury. We are helping only a minor fraction of the small businesses needing help and discriminating against the majority of the others.

Present legislation provides an artificial demand for direct loans. Congressional intent is that SBA should be a lender of last resort for those who cannot get a loan from any other possible source. The present situation encourages small business to see SBA as a lender of first resort.

These different provisions under section 7 lead to inconsistency. The present provisions also make the loan program difficult to administer. Consolidation of these programs would streamline the management of the loan program.

The section 7a proposals we have submitted would continue the SBA's authority for deferred participation, immediate participation, and direct loans to small businesses. This would make the present section 7 sound and fiscally responsible without diminishing any of the SBA's present authority.

Confusion between the existing provisions governing each of these separate SBA loan programs would be eliminated. We would continue to make financial assistance available to any qualified small business, for any purpose consistent with the Small Business Act.

This consolidated business loan program has several specific features: A, uniform interest rates on all business loans; B, increased guarantee loan limit to \$750,000; C, increased maturity on business loans.

Under A, "Uniform Interest Rates," the present subsidized low rates for SBA's direct business loans program creates an artificial demand for SBA funds. The revision would make SBA "the lender of last resort" for those not able to get a bank loan and change our present role of being a lender of first resort. It would also eliminate market distortions.

B, increasing the "Guaranteed Loan Limit" to \$750,000. This would allow us to guarantee up to 90 percent of the repayment of loans made by a bank or other certified lending institution. Inflation makes this necessary. The greater dollar amount of assistance is needed to serve the needs of small business. This is particularly true for businesses acquiring real property.

We pledge to administer this authority carefully and use it only where circumstances are warranted.

Regarding C, "Increased Maturity on Business Loans," this amendment would authorize a small business loan maturity to 30 years, with each case being judged on its own merit and without presumption of a 30-year maturity in all cases. This proposal would allow better terms of repayment to small business borrowers while still protecting the interest of Government. It would enable the maturity for a loan to be related to its purpose of financing and would closely parallel the approach used by bankers.

We feel that this would be more in conformity with loan period repayment schedules in the private sector and that a policy of longer term loans, with smaller monthly payments, would be espe-

cially beneficial to small firms in today's economic climate and under current interest rates.

This concludes my presentation for the legislative proposals for fiscal year 1982 involving loan consolidation.

I am well aware of major concerns regarding the provisions of Congress which authorize SBA disaster and economic injury assistance loans to small business concerns. This legislated program has grown dramatically in recent years.

In our view, the disaster program is unworkable. It is difficult to administer and divides into several unnecessary subprograms.

This legislation leaves SBA in disaster assistance to agricultural enterprise aside from those programs already in existence at the Department of Agriculture. It authorizes SBA to make disaster loans to businesses regardless of their ability to obtain credit from other sources. For business borrowers who are not able to obtain credit elsewhere, it authorizes SBA to make loans at extremely subsidized interest rates.

Our proposal would eliminate the nonphysical disaster loans subsections of this act. The nonphysical disaster provisions have evolved in response to specific problems facing small businesses—for example, adverse effect of military base closings and the Government's regulations, among others. The continuation of SBA's nonphysical disaster loan program is not appropriate for the following reasons: One, it creates a major threat to the budget by suggesting that such assistance is an entitlement; two, nonphysical disaster loans weaken SBA's budget authority in dealing with the effects of physical disasters; three, it is based on the premise that Federal regulatory actions protect general public health, safety, or welfare that could create compensable claims for private industry adversely affected by such regulations; four, many of the nonphysical disaster loans are really business loans and SBA's business loan programs could satisfy the need in those cases.

The disaster lending programs of this Government are important. I strongly support them and I know that you do too. They are running into billions of dollars between SBA and FmHA. We have got to bring them under control.

I think the taxpayers are now so burdened that they cannot afford to make "disaster" loans for nonphysical disasters. This is, we believe, the least defensible part of our disaster program. Too many cases are a judgment call on whether a situation is or is not a disaster.

In conclusion, Mr. Chairman and members of this subcommittee, our proposal to reform our lending program does not injure small business. To the contrary, we believe it puts our programs on a more equitable and fairer basis, rather than making them a special subsidy for the relatively few among the many.

Our proposal for disaster reform lending is necessary. Our reform will continue to provide help to those who really need it in times of genuine crisis. It will help us end abuse, mismanagement, waste, and fraud.

Mr. Chairman, as you are aware, I have been Administrator for only 8 days. Therefore, I would appreciate it if you would allow me to defer technical questions to SBA program heads who are with me today and can answer questions in detail. However, I know that

I have not had time to formulate my independent opinions, but be assured that I will continue to work on them and that I will establish policies whenever necessary. I am willing to cooperate with you.

Mr. MITCHELL. Thank you very much for your statement and now we will get into the questions. I think we will operate under the 5-minute rule.

On page 2 in your testimony you make the statement, which is a very sound statement, that many small businesses are barely succeeding and are in desperate need of new capital. Many of them, under the present programs, would be eligible for loans at about 9¼. Is that right? But you propose to move that up to the "prevailing interest rate." Is that correct? What is the prevailing interest rate?

Mr. CARDENAS. At the present time it is probably around 19.

Mr. MITCHELL. Wouldn't this work an additional hardship? You're saying these businesses are barely succeeding and yet you are going to force them into a situation where they are going to have to pay almost double the current interest rate.

Mr. CARDENAS. I realize that. However, this makes it fair competition for all and not a special program for a few.

Mr. MITCHELL. Let me just say that while all small businesses need help, I for one am convinced that some need more help than others and there is nothing necessarily wrong with targeting in on those who need the help most. I think it would be disadvantageous to try to spread your services out across the 13 million small businesses in this Nation. You just couldn't do that.

You have to go through some process of selectivity, of prioritizing. I would assume that your prioritizing would be based upon those businesses that need help the most. If that is correct, it sort of negates the argument that you just made, unless I am not interpreting the argument properly.

Mr. CARDENAS. Well, it does leave too much room for general judgment which has not been exercised properly. I think this is what has led to mismanagement and abuse and I think this is what we need to correct it.

Mr. MITCHELL. I'll have some further questions on that. You are opting for an increase in the maximum amount of a loan per borrower to \$750,000 under the guaranteed loan program to cover inflation. Has this program been successful? I know that I have been almost buried under complaints in the 10 years that I have been on this committee about the inability of small businesses to get bank loans. Do you have some data which would demonstrate the effectiveness of this loan program?

Mr. CARDENAS. I'll defer that to Mr. Holloway.

Mr. HOLLOWAY. Mr. Chairman, with respect to the increase from \$500,000 to \$750,000, there is data available that would reflect that over the past few years our ability to accommodate financings to such industries as manufacturing has decreased.

We would propose to very carefully develop criteria with respect to loans larger than the \$500,000 that is the present statutory maximum and loans as high as \$750,000 would likely be few and far between but there are situations which this would accommo-

date and give us the needed flexibility for accommodating financings of high productivity and job impacts.

Mr. MITCHELL. I understand what you said but it is not quite responsive to my question. I am asking what has been the success of the loan guarantee program in a city like Cleveland? Are the lending institutions, are the banks being fully cooperative? What has been the success of the program in New York City?

The complaints that I have received and in my meetings with the bankers they have argued two points—the reasons why they don't make loans even with the guarantee. One point that they argue is that these are high risk loans even with a 90-percent guarantee and they are unwilling to make the loan and, No. 2, that the paperwork required for such a loan is burdensome.

Some bankers have indicated they simply do not participate in this program. What I am trying to get at is the degree of success of this program before you put some more money in it.

Mr. HOLLOWAY. Mr. Chairman, I believe that the statistics of banks participating in our program are approximately 11,000 out of the 15,000 banks in the country. This does not include their branches. If we threw in the branches it would probably be some 40,000 to 42,000 banks and branches, but of the main banks in the country, or around 15,000, some 11,000 have at least one SBA loan in their portfolio. Many are very, very active. The seventies of course saw a period of dramatic growth in the guarantee lending program.

I would have to say that the complaints, in general, are the exception. We do hear, ourselves, more of the complaints than we do praise for the success of the program but the acceptance by the banking community is clear. The growth is clear.

I had the opportunity yesterday afternoon to meet with the State bank association from Iowa and I can assure you their thoughts about SBA and being our lending partners and being an extension of our delivery of service to the small business community were very encouraging.

Mr. MITCHELL. I know my time is up and I will relinquish it with this statement, that the success of the program depends upon how you define participation by the banks in your program. One loan in a portfolio is not necessarily indicative of success. Let me come back to that, if I may, and at this time I do make a formal request that you provide us with an analysis over the last 2 years—a detailed analysis—of the banks' participation in the guaranteed loan program: What banks have done with this and what dollar amounts? How many have they turned down, and so forth.

Mr. HOLLOWAY. We'd be happy to.

[Information requested above follows:]

As requested by Chairman Parren Mitchell, attached is the detailed analysis of banks' participation in our guarantee loan program. SBA's computerized reporting system does not, at present, track the number of business loan guaranty requests which SBA turns down.

The attached report shows the number and value of SBA-guaranteed loans approved during fiscal years 1979 and 1980, by lender and/or lender branch (according to the lender outlet's identification number, which is referred to as the "Polk Number"). The lender outlet's city and state is shown. Also, this report reflects the number and value of loans having been approved for minorities and non-minorities,

with total figures shown on the same line as the bank's name, city, state, etc. The minority (M) and non-minority (N) sub-totals appear above the lender's name line.

This report has four component parts, as designated in the far-left column showing the lender's Polk Number. If the lender's Polk Number is preceded by an "A," this means this is the bank's headquarters. A Polk Number beginning with a "B" indicates that the lender is a Savings & Loan Association. A Polk Number beginning with a "C" indicates that the lender is a non-bank lender participant with the SBA. Finally, if there is no letter preceding the Polk Number, this indicates a branch outlet of the lending institution.

[NOTE: The report referred to has been retained in the committee's file.]

Mr. MITCHELL. Mr. Cardenas?

Mr. CARDENAS. I would like to comment here. As I am charged with many responsibilities, one of my prime responsibilities is this communication with the banking community to assure that they are responsible for making this a successful program.

I would also like to add that I have not had time to really delve into all the details behind these new proposals, but where we are planning to go to the larger loans, of \$750,000, I am looking for more innovative ideas. I don't think it will be necessary to risk more in that category because where it involves real estate loans I feel that the banks' guarantee ought to be much less than the 90 percent, because you are dealing with less risk.

There is a lot of room for adjustments and innovations to make sure that we are not putting all our eggs in one basket.

Mr. MITCHELL. I will probably come back to this.

Mr. Addabbo?

Mr. ADDABBO. The statement you made relative to trying to get the banks interested, I've heard that statement made many times by almost every Administrator and I think the strongest statement was made by former Administrator Kobelinski, who came out of the banking community and with all his contacts and everything else he kept running into a complete blank wall. Again, I respect that the reason the Small Business Act was enacted and the direct loan program was established was because of the failure the banking community to heed the needs of small business.

Mr. Administrator, in my opening remarks I made reference to the Office of Management and Budget and its overzealous attitude in trying to manage. Has your testimony been submitted or previous to today had your testimony been submitted to OMB and if so were any portions of your testimony added, deleted, or disapproved by them?

Mr. CARDENAS. No. It was submitted, and it is basically the same. You might say there were some corrections in sentence structure, but it didn't change my delivery or the intent of my delivery.

Mr. ADDABBO. The direct loan program has been in existence, as many of these programs which you are now trying to change by this proposed legislation—they have been in existence and, again as I said earlier, were passed into law because of direct needs.

Prior to the recommendation of change, has SBA made any kind of evaluation of what effect this would have on the small business community, on the direct loan program, on the other programs to be affected?

Mr. HOLLOWAY. Mr. Chairman, if I may respond to that? We looked back to the fifties in which the prime rate was some 3 per-

cent. Commercial rates were some 4 to 5 percent and the legislative or statutory rate at that time was some 5½ percent, clearly indicating that at least initially there was no intent that the direct loan rate be a subsidy.

In truth, the issue of providing subsidies has clouded the issue and hurt our ability to provide financing to those who need it most. We start with the premise that anyone who can do banking without Government involvement should do it and only come to SBA where the funds are not otherwise available. Then, if they can qualify for the guarantee program, they go there.

If they really can't make it with the guarantee program they go to the immediate participation program and finally to direct loans. Today, 9¼ percent becomes a subsidy in the extreme so the issue really is: Shall we have subsidies? It has clouded the issue of whether or not we can provide financing to those who truly cannot get it from the guarantee program.

Mr. ADDABBO. You've restated the lore. In other words, a direct loan was to be the court of last resort—that they had to go through these processes before they came to the direct loan program. Only then would their application be looked at, the business be looked at and then the Administrator or the director would determine whether this is a small business that should be helped, could be helped, and therefore the subsidization. And we did subsidize under direct loan program and again, because there was a need to try and get the small business moving.

In regard to the elimination of the program levels in the salary and expense categories, do you see this increased discretion being welded by the SBA alone or by SBA in concert with OMB or by OMB with some input from SBA? And do you believe that this will result in SBA having less flexibility in shaping programs to make them more effective in aiding small businesses?

Mr. HOLLOWAY. I believe that under the loan consolidation program which, in fact, was sponsored by the last administration as well as this one, we will have an increased flexibility to accommodate most any legitimate small business need that is in concert with the intent of the Small Business Act.

By having these different little categories legislated, it forces us to make a financing fit that mold, and if it doesn't fit that mold, then we have more of a problem with it and I believe this increased flexibility will give us the ability to accommodate most any legitimate business purpose or need.

Mr. ADDABBO. Will that flexibility be solely administered by SBA or will that be administered by guidelines set by OMB?

Mr. HOLLOWAY. As part of the executive branch of the Government we will, of course, receive direction from the White House. We will attempt, within the funding levels available to us to fairly and equitably make loans available to all small businesses that legitimately need our guarantee and in some cases our direct funds.

Mr. ADDABBO. One final last question. Mr. Administrator, I appreciated your opening statement and your regard for small business but do you believe that the Federal Government should be in the business of insuring that small business thrive in the United States?

Mr. CARDENAS. Yes, sir. I do believe they should be involved. I feel that it gives us the opportunity to be fair and help in a fair way the business community in general. Certainly it has played a large impact on our economy and will continue to do so.

Mr. ADDABBO. Thank you, Mr. Chairman.

Mr. MITCHELL. Mr. Hiler, you're recognized for 5 minutes.

If it is all right, I will call in order of appearance, if that's OK. I think that's a little fairer.

Mr. HILER. Thank you very much, Mr. Chairman. What do you think is the principal way that the Government can help small business thrive in this country?

Mr. CARDENAS. Sir, I believe that we have a big role to play, Government as well as SBA, in supporting these guaranteed loans but at the same assuring that our business and prospective small businesses are prepared to enter into business. Therefore what I am alluding to is to provide good management assistance along with providing loans.

Mr. HILER. How many small businesses are there in this country?

Mr. CARDENAS. 12 million; 12 to 14 million.

Mr. HILER. And how many normally receive some type of SBA assistance over the course of a year?

Mr. CARDENAS. Five to six in the direct loans—5,000 to 6,000 direct loans.

Mr. HOLLOWAY. Probably a total of about 30,000, direct and guaranteed business loans.

Mr. HILER. How about in the management assistance area?

Mr. HOLLOWAY. Of course in the management assistance area, there activity is related to conducting seminars, SBI program and SBDC program, doing a lot of counseling through SCORE and ACE. I believe their contact with the public is something in the neighborhood of 200,000 to 300,000 contacts per year.

Mr. HILER. Is that with 200,000 to 300,000 individual businesses?

Mr. HOLLOWAY. Yes.

Mr. HILER. So then the SBA in total would probably service somewhere between 230,000 to 330,000 out of the 12 to 14 million businesses, small businesses in this country?

Mr. HOLLOWAY. That's correct. Reacting to the need that has evidenced itself.

Mr. HILER. So when we talk about the best way that the Government can assist the small business community, one way is through the SBA assisting these 200,000 to 300,000 indirectly through management assistance and the 30,000 through direct and loan guarantees, but the bulk of the assistance is by providing the sound economic environment for small business to thrive, wouldn't you say? The SBA should be the last resort, not the first resort.

Mr. HOLLOWAY. That's correct. One of the big problems has been that all these Government programs, no matter how valid, require money and a lot of it—necessitating that the Federal Government go into the credit markets and absorb an inordinate amount of the available credit that is there, thus driving interest rates up and causing inflation.

Mr. HILER. So when we provide excess loan guarantees at the Federal Government level for those 30,000 businesses that need

loan assistance, it jeopardizes the financial health of the other 12 to 14 million?

Mr. HOLLOWAY. That is correct.

Mr. HILER. Normally one would tend to go to their strong suit rather than their weak suit, wouldn't you?

Mr. HOLLOWAY. That is correct.

Mr. HILER. Could you tell a little bit more about going from the 9¼ percent level to the approximate market rate of interest?

Mr. HOLLOWAY. It relates, Congressman, to this business of the subsidy. We have people walk in the door, looking for help and being prudent business people in many cases, they know right away that 9¼ percent is better than a guaranteed loan at 19 percent. The difference is very dramatic. A quick example: A \$100,000 loan would have an average amount outstanding over loan life of some \$50,000. If you have a 10-percent differential, that's \$5,000 per year difference or, over the 10-year life of the loan, is \$50,000.

So we are talking a \$50,000 subsidy on a mere \$100,000 loan and of course on our direct loans our statutory authority runs as high as \$350,000 so you can see that for the larger direct loans we are talking about subsidies in the nature of \$125,000 to \$150,000 over loan life. That causes an inordinate amount of demand and attempts to get these direct loans and makes it exceedingly difficult for us to accommodate the financings where possible in the private sector through the guaranteed route and save the direct money for the absolutely weakest credits that still have a reasonable assurance of repayment.

Mr. HILER. So subsidization was never intended to be subsidization, but to provide access to credit and capital, which is a principal cause of failure of small business, at a subsidized rate only in those cases where business cannot get it through other means?

Mr. HOLLOWAY. That is our view and our hope, to graduate them into, ultimately, doing business with their bank without the Federal assistance.

Mr. HILER. You mentioned when the program first started that the prime was in the 3- to 5-percent range and the legislation called for 5½.

Mr. HOLLOWAY. Yes. The 5½-percent legislated rate stayed the legislated rate until sometime in the early seventies so the change from an incremental risk add-on percentage to a subsidy happened by operation of the markets in which prime and other lending rates went up in the seventies to levels of 13 to 15 percent. So it was probably in the early seventies by operation of market forces that what had originally not been subsidies became subsidies in the extreme and we are correcting the effect of those market forces in providing that subsidy.

Mr. HILER. And all we are doing is correcting the effect of those market forces in providing that subsidy.

Mr. HOLLOWAY. Yes, and an attempt to manage our demand for our guaranteed and direct funds.

Mr. HILER. Thank you, Mr. Chairman.

Mr. MITCHELL. Mr. Smith?

Mr. SMITH of Iowa. On page 7, I'm not quite sure I understand the first sentence: "This legislation leaves SBA in disaster assistance to agricultural enterprises, aside from those programs already

in existence, to the Department of Agriculture." Give me an example of somebody that is eligible for SBA, that could get the same thing at Agriculture, under the new law?

Mr. HERTZBERG. I think the reference in the statement is to the legislation that exists now, sir, rather than the proposed legislation.

Mr. SMITH of Iowa. No; I'm talking about legislation we passed last summer. The existing law.

Mr. HERTZBERG. Public Law 96-302?

Mr. SMITH of Iowa. Right.

Mr. HERTZBERG. There is a small group that by regulation, I believe, at the Department of Agriculture, were not eligible over there that remain eligible in SBA. Nonoperator owned farms.

Mr. SMITH of Iowa. But that would be something, well, they are not eligible at both places.

Mr. HERTZBERG. It is my understanding that Farmers Home Administration is changing the rules to make those categories that drop out of the system eligible at Farmers Home Administration.

Mr. SMITH of Iowa. Then they still would only be eligible one place or another. They wouldn't be at SBA if they were at Farmers Home.

Mr. HERTZBERG. True. I think that our intent really is to remove SBA from the agricultural field so we can concentrate our limited resources on business concerns and leave Farmers Home Administration—

Mr. SMITH of Iowa. The point is that under the law SBA doesn't make a loan unless FmHA excludes somebody that would be eligible if they were not a farm producer.

Mr. HERTZBERG. Public Law 96-302?

Mr. SMITH of Iowa. Right. So there is nobody who is getting double coverage. Take for example, the example you give of the owner of a dairy barn who would not be eligible to get a loan to replace the dairy barn but if the operator, for example, needs a dairy barn and the owner can't replace it the operator isn't going to be in business, either. FmHA just arbitrarily excluded the owner of the dairy barn.

Now, SBA would loan the owner of a brewery money to replace a brewery, why wouldn't they loan somebody the money to replace a milking production unit. Isn't that as good as a brewery?

Mr. HERTZBERG. I would say so, sir; yes.

Mr. SMITH of Iowa. I don't get the point then.

Mr. HERTZBERG. I think the principal problem that we are facing is that SBA has had very limited experience in the agricultural field.

Mr. SMITH of Iowa. You've had very limited experience in breweries too, don't you?

Mr. HERTZBERG. We probably, just until up to a couple of years ago, had more experience with breweries than with farms.

Mr. SMITH of Iowa. You don't have experience in any of these. You're not in the undertaking business either but you loan to undertakers and that isn't the criteria at all. The thing is that just because somebody happens to be producing milk instead of beer, shouldn't make him ineligible for and excluded from being considered for a loan, if he suffers the same disaster. I mean, the same

tornado tears down the brewery as does the dairy barn so what we have said in Public Law 96-302 is that FmHA you do what SBA has been doing but if you fail to do so this guy can go back to SBA. And that's the only reason they're talking about changing the regulations.

Now you want to change the law so there is no pressure on FmHA to change the regulations, so you get all the business back, I guess. It just seems to me you are going backwards. Or else you are being unfair to the guy just because he happens to be a producer of agricultural products. One of the two.

The other person that gets a loan is the homeowner. But what's the difference, whether he is producing agricultural goods or working in a factory? If he loses his home he needs to replace the home.

Mr. HERTZBERG. Even under this legislation the homeowner, including the farmer, would remain eligible for SBA homeowner assistance.

Mr. SMITH of Iowa. I just don't understand your approach. I just wonder if you have really looked at all that we have been through on this committee for 10 years and finally we are getting a good logical disaster program in the U.S. Government where 1 agency is able to respond instead of 15, like they used to. Everybody would run out there—FmHA, the SBA, HUD, everybody else would run out with their own little program. Now we have one lead agency and I just think you are making a mistake to try to tear that down. We need somebody responsible. If we don't, what you are going to have is what we used to have and everytime there is a disaster somebody runs over to the House floor with a bill that passes unanimously and provides grants and all kinds of loose regulations and laws so that we really have more trouble than you have under the present one.

Mr. MITCHELL. Mr. Smith of New Jersey.

Mr. SMITH of New Jersey. Thank you, Mr. Chairman. I have a couple of questions. First of all, Mr. Administrator, what are your plans for improvement of the loss ratio and debt collection. I didn't catch that in your prepared testimony. I wonder if you have some plans on that?

Mr. CARDENAS. Yes, at this time, Congressman, we are in the process of gathering information to review that very seriously. I can't discuss any plans at this point but we are in the process of getting information to come up with some definite plans which are very badly needed.

Mr. SMITH of New Jersey. Could you elaborate a little bit, perhaps, on the extent of the problem? What percent of those debts have not been collected?

Mr. HOLLOWAY. Congressman, our overall program loss rate is some 8 percent, ultimately. In other words, we would perhaps charge off up to a given point some 4 percent and some additional 4 percent would be experienced were we to close the doors of lending today and not make any further loans. We would still experience additional losses so overall our loss experience runs something like 8 percent.

Now, that figure is to some degree a manageable figure. We can fine tune the system, be a little more hardnosed, and we can reduce that. If we are being too hardnosed already, then we can

ease up a little bit and that would increase but the overall program loss rates are some 8 percent. The ultimate rate.

Mr. SMITH of New Jersey. Another question, currently the 7(a) direct loans, as you know, are limited to categories of business owners that are socially and economically depressed and disadvantaged—women and Vietnam veterans. Will these priorities be in any way modified by the proposed consolidation concept?

Mr. HOLLOWAY. No; the consolidation concept would not affect that at all. Those particular targeting approaches are set forth in our budget documents and are set forth in our standard operating procedures and there is no intent to change those thrusts by the loan consolidation.

Mr. SMITH of New Jersey. Finally, one more question, Mr. Chairman. The SBA proposes raising the interest rates for all the direct loans to a single market rate as you have indicated. I know it is difficult to predict what the market rate will be, but how often will that rate be determined? Twice annually? Once annually?

Mr. HOLLOWAY. We presently have a regulatory approach that says from time to time SBA will publish the maximum interest rate deemed to be reasonable, that we will guarantee.

We do that at least quarterly and in some cases where there are dramatic moves in interest rates we will do it after 30 days but we ordinarily try to restrict this to quarterly because so many loans are based on variable rates and otherwise use a benchmark, depending upon the SBA maximum guaranteed rate and quarterly adjustments.

In some cases it might get adjusted as often as monthly but in general we try to keep adjustments to no more than quarterly.

Mr. SMITH of New Jersey. All right, thank you very much.

Mr. MITCHELL. The Chair would ask unanimous consent to insert into the record the opening statement by the ranking minority member, Mr. McDade, and that it follow immediately behind the Chair's opening statement. This will be entered.

Mr. Daub?

Mr. DAUB. Mr. Chairman, thank you for entering our minority leader's statement into the record. We appreciate that. And I want to compliment you on calling the hearing today and inviting our new Administrator so early on before this committee.

I am sure we will have a number of opportunities to exchange views with him and with his staff and we look forward to that. I would like, before my 5 minutes commence, if I might have leave of the chairman's prerogative to make a statement on behalf of the minority, which is very brief, and then commence my 5 minutes with four questions I would like to direct to you, Mr. Administrator.

Mr. MITCHELL. Make your opening statement and it will not be taken away from your 5 minutes.

Mr. DAUB. Thank you very much, Mr. Chairman.

The legislation that is proposed will constitute a fundamental change in the administration of the Small Business Administration and while I applaud the efforts to streamline the Administration, I believe that it is the responsibility of this committee, Mr. Cardenas, and this Congress to provide the direction for the Small Business Administration and establish its agenda.

President Reagan's proposals to limit the presence of the Federal Government to areas where that presence is both positive and productive, require that the Small Business Administration channel its resources in the direction of those unable to obtain assistance elsewhere, to entities that the Small Business Administration, by its charter and experience, is most effective at serving and to do so in a fashion that does not undermine nonparticipating entities nor contribute to the Federal Government's relentless demands on the credit market.

With that in mind I would like to ask you four questions. Do you believe that the no credit elsewhere test may too drastically reduce the number of participants?

Mr. CARDENAS. I think it will have some effect in this economy, but once we prepare these prospective small businessmen with proper management assistance and direct them in the right way, I think eventually it will level off.

Mr. DAUB. Would you explain what you mean by market rate more precisely? And how it will be established beyond the answer that was previously given to Mr. Smith? The precision by which you intend to deal with this reestablishing of market rate.

Mr. HOLLOWAY. The way we would deal with this is to develop a full range of options for our Administrator to decide which conceptual approach he would like to take. At that time we would publish in the Federal Register proposed regulations setting forth the proposed method and we would invite public comment, comment from all interested parties.

We would receive those comments. We would evaluate them. We would give it our best shot to come to our Administrator with final regulations, proposing an equitable method of determining a fair market commercial rate.

Mr. DAUB. Let me then follow this up. Because the loan rate is tied to the time the application, at the time of the application, do you believe that different individuals facing the same disaster circumstances could pay different rates of interest, according to the time of an application?

Mr. HOLLOWAY. In the disaster proposal the proposal is actually to raise the rate to the cost of the money to the Government rate as opposed to the market rate in the loan consolidation program.

That rate is not quite as volatile. It does, of course, change somewhat on a daily basis. There are, right now, during the month of March, there are not large swings. That rate was around 13 percent.

Mr. DAUB. Would you think there is some need for watching in your policy the potential of a disaster and then that timeframe you talk about so that you don't have somebody in the same difficult circumstance getting different cost of money loans?

I think that that should be addressed, if it hasn't been.

Mr. HERTZBERG. With regard to the disaster rate, while we haven't gotten the exact regulations formulated, if the bill were to pass the cost of money would probably be calculated on some periodic basis with a single rate as determined at the onset of any disaster. That would carry through that disaster. That's my belief.

Mr. DAUB. So you think it will remain the way it has been previously administered?

Mr. HERTZBERG. Yes, sir. Whatever would be in force at the beginning of the disaster carries through the balance of that disaster.

Mr. DAUB. How will the Small Business Administration establish the allotment of—

Mr. MITCHELL. Would the gentleman yield for just a moment?

Mr. DAUB. Sure.

Mr. MITCHELL. Would you state that again, please?

Mr. HERTZBERG. Let me stand corrected if—

Mr. MITCHELL. Yes, I think you are in error.

Mr. HERTZBERG. Possibly counsel could?

Mr. TECKLER. The proposal is for the rate to be that at the time at which the loan is made as opposed to the time of the declaration of disaster.

Mr. HERTZBERG. I stand corrected.

Mr. DAUB. I'm trying to get at whether or not you're going to do it the old way or whether under the new idea we are going to end up with a spread of different rates for different people at different times, involved in the same disaster. How are you going to establish a sense of fairness, disaster to disaster, if you will, for the people that must rely.

Are you going to have a sense of fairness or not?

Mr. TECKLER. Without preempting the program heads prerogatives, there is somewhat of a sense of unfairness in the present policy which requires that a particular rate be established at the time a disaster is declared, which may be some months prior to the actual making of a given loan, during which time the cost of money would increase and during which time the interest rates which are presently in effect would increase.

Mr. DAUB. I was just going to let it go, Mr. Chairman. For the time being. Let the record surface this problem but if you now recognize the catch-22 that you might be in, I for one hope that you'll seriously give consideration, Mr. Administrator, to how that particular problem that I have just illustrated can be resolved fairly.

Thank you, Mr. Chairman.

Mr. MITCHELL. I thank the gentleman for his line of questioning. That was one that I intended to pursue because it seems to me that inherent in these changes is establishment of an unfair system and I am certain Mr. Daub and I will be posing further questions in that area.

Mr. Holloway, I was delighted to hear you say that the target, the loan targeting under direct loans will remain the same. That is for the disadvantaged, women, handicapped, and the priority markets of exports and inventors.

I don't want to ask a question. I just want to make a case right now as to why it is so imperative that that targeting be retained. I have before me a report on SBA guaranteed loans for 1980 broken down by regions and I will ask unanimous consent that it be inserted in the record at the proper time but in region 1, 46 loans were made, 44 of which went to majorities. Two loans went to minorities.

In region 2, 18 banks participated, 60 loans were made. One went to a minority. In region 4, 54 loans were made in 1980 with 23 banks participating. One went to a minority.

Region 5, some 31 loans were made in 1980 and only 2 went to minorities, with 19 banks participating.

I could go all the way down through each one of the regions to really make out a case for continued targeting because there is clearly a reluctance on the part of the lending institutions to lend to those categories that we are targeting for.

In short, you had a total of 168 banks participating in your loan program and 520 guaranteed loans were made to majority or non-minority outfits and only 33 were made to minorities in fiscal 1980 and I think that becomes a case clearly justifying the continued targeting under your direct loan program and I ask that this be submitted for the record at this point.

[The information follows:]

SBA GUARANTEE FISCAL YEAR 1980 LOAN APPROVALS BY MBA REGIONS

Bank region	Number of banks	Loan type	Number of loans	SBA dollars approved	Percent guaranteed	Total dollars approved
I.....	22	Nonminority	46	\$5,566,695	87	\$7,560,000
		Minority	2	348,647	90	387,385
		Total	48	6,915,342	87	7,947,385
II.....	18	Nonminority	60	9,700,725	87	11,096,800
		Minority	1	147,272	82	179,600
		Total	61	9,847,997	87	11,276,400
IV.....	23	Nonminority	54	7,459,105	89	8,379,395
		Minority	1	40,000	80	50,000
		Total	55	7,499,105	80	8,429,395
V.....	19	Nonminority	31	4,484,270	89	5,022,300
		Minority	2	337,500	90	375,000
		Total	33	4,821,770	89	5,397,300
VI.....	8	Nonminority	18	3,171,570	87	3,643,300
		Minority	0	0	(¹)	0
		Total	18	3,171,570	87	3,643,300
VII.....	18	Nonminority	96	16,194,795	88	18,245,050
		Minority	4	396,000	90	440,000
		Total	100	16,590,795	89	18,685,050
VIII.....	21	Nonminority	59	10,083,493	88	11,460,270
		Minority	1	54,000	90	60,000
		Total	60	10,137,493	88	11,520,270
IX.....	10	Nonminority	25	3,323,470	86	3,857,800
		Minority	2	85,500	90	95,000
		Total	27	3,408,970	86	3,952,800
X.....	29	Nonminority	131	22,846,822	89	25,719,800
		Minority	20	2,022,700	89	2,288,000
		Total	151	24,869,522	89	28,007,800
Total	168	Nonminority	520	83,830,945	88	94,984,715
		Minority	33	3,431,619	89	3,874,985
		Total	553	87,262,564	88	98,859,700

¹ Not available

Mr. MITCHELL. Mr. Staton?

Mr. STATON. Thank you, Mr. Chairman.

I don't want to find myself in the position, as a former banker, of trying to defend the banking industry for their particular involvement in the loan program. Obviously many banks are reluctant to lend to small businesses because of the unhealthy status of the business. The banking industry becomes a lender of last resort. I was just wondering though, what kind of criteria is used in determining whether or not loans are to be made to businesses which, as the chairman pointed out earlier if I understood him correctly, are in the most need or those that have the most chance of success.

If you could just comment on that for just a moment, I would appreciate it.

Mr. CARDENAS. I would hope that the bank, as well as the SBA, would take both criteria into serious consideration. The need and the chance for success. I think it would be unfair for the bank or the administration to lead someone into the business blindly without knowing that they are adequately prepared. I think that both criteria have to be implemented seriously: Need and chance for success.

Mr. STATON. That's good to hear because it doesn't serve either the potential businessman nor the Government, in this case, to make a loan which has a reasonable chance of going bad or going into default.

I think in fairness to the banks, one of the things that they are involved in is the protection of their stockholders and making certain that they make good loans. Because frankly, the ones who come in and determine whether loans are good or bad is FDIC and the Federal Reserve System. So we have a catch-22 there, also. If banks continue to make poor loans, then they are scolded and criticized by their regulatory agencies for the lack of protection for their depositors.

The question I have here, Mr. Administrator, regards the number of applications that may have surfaced for direct loans since the interest rate became lower than what is currently the market value. Do you have any figures on how applications increased, in that regard?

Mr. HOLLOWAY. We know that we have in most of our offices as much as 1 or 1½ years of backlog of people who would like to be on the list to be funded through the direct loan program. The list is so long, in many cases, that it really does not even make any sense to continue to pile up applications and put people on this list.

When it gets in excess of 1 year, it is probably just as wise to shut down the acceptance of any further direct loan applications until some of it can be cleared up. The small businessman needing money, we recognize he does not need it 2 years from now. It is a

little unfair to him, to encourage him to wait for direct money when in reality his best shot is to find a bank that will take a 10-percent exposure with him on the credit.

Mr. STATON. You were talking about the raising of the rate, again to relate somewhat to my experience in the banks, we had funds tied to prime, and on 2 percent over prime. And as prime would fluctuate, the cost of interest on those would either go up or down depending on the rate of prime at that time.

Is there any plan to do the same thing under the SBA program, either for disaster or for direct loans or whatever?

Mr. HOLLOWAY. In the business loan area, Congressman, we have a variable rate option available to participants whereby they can set the initial rate based on some periodically published rate such as the prime rate or indeed it can be based on term rate of the cost of money to the Government securities.

So we do use that in the business loan program now and of course we are looking at the entire interest rate issue with respect to options for the future and our experience with fixed rate, with variable rate, both of them actually have certain rather serious deficiencies insofar as a small businessman or a bank is concerned.

Mr. STATON. I have 1 minute left and I'd just like to ask you to comment on what you feel has been the cause for the increase in interest rates?

Mr. HOLLOWAY. I believe that a major factor has been that there is only so much capital that is available in the marketplace and it is competed for by competing interests. The Government is the biggest competitor of all, soaking up the available credit to an inordinate extent, leaving to private sector entities the leftovers which they bid for and bid the rate up.

Mr. STATON. I couldn't agree more. Thank you.

Mr. MITCHELL. I am going to recognize Mr. Smith of Iowa after I make just one brief statement. I am delighted that Mr. Weber is with us. He is not a member of the subcommittee, but he is a member of the full committee and I don't see why we have to follow any rule that would preclude him from asking questions. I think that would be foolish. So we will recognize you next.

Just to comment on the Government squeezing up the amounts, squeezing out the amount of funds available in the private sector, I just want you to know that for 4 years I served on the House Budget Committee and in each of those years, before we arrived at the final budget figure, we called in representatives of the major institutions in the private sector and said: "Here are the dollar figures; here's the deficit. Will this crowd you out?"

In only one instance was it stated to us that it would be crowding out and we revised the budget to accommodate that so I think generally, and certainly in the 4 years that I served on the budget committee, we took into account, we asked the lending institutions, we asked the private sector: "Can you live with this figure? Will it crowd you out?"

And the answer was, almost uniformly: "No." Except in that one instance. So I think the record ought to reflect that experience that the Chair has had.

Mr. Smith of Iowa?

Mr. SMITH of Iowa. I want to pursue this credit elsewhere test for disaster loans. What is the theory behind that? So I can understand where you are coming from. What is the theory behind the idea that everybody should meet a credit elsewhere test?

Mr. HERTZBERG. I think that the basic premise is that those that have the ability to meet their own need do not need assistance from the Government that will, in effect, deprive those that are in greater need of getting that assistance.

Mr. SMITH of Iowa. Then you are proceeding from the theory that the purpose of disaster loans is only to help the individual who receives the loan. One of the purposes that many of us thought of this disaster loan program was that it was to help restore a community, not just the individual but the community.

Mr. HERTZBERG. I think it has both objectives but those that have the ability to address the damage that they have incurred from their own resources, from private credit certainly should go ahead.

Mr. SMITH of Iowa. Let me give you a couple of examples, then, and I don't really fault you for this because I found that I didn't understand it at first either until I had had some experiences with it.

Let me give you a couple of examples. In West Virginia, a flood came down through a valley there and wiped out a town. The owner of the supermarkets, one in that town and three others, said:

Look, I can borrow all the money I want. I don't need to borrow money but it's just this simple, I'm not putting a supermarket back in that town if I have to go out and borrow money at the regular rate; I'll go to some city where I can make more money.

So you just have this alternative. Either you give them a subsidized interest rate with the requirement to go back into the area—that's one of the requirements you know—or they don't have a grocery store. Now, there you are helping the town. It's not the individual. As a matter of fact the store owner said:

I really would be better off if I didn't go back there at a subsidized rate. I can make more money going somewhere else but I've been there and I feel obligated and I will do it.

That's an example of where you don't help the individual, you help the town. In Johnstown, 30 percent of the businesses refused to go back even with the lower interest rate. I'm talking about 30 percent of the needed kinds of businesses. They wouldn't even go back with that. They went somewhere else.

So whenever you get into this credit elsewhere test you have got to be thinking about whether your theory is that you are just there to help an individual or if you are trying to help restore a community, help it to finance its way back out of the disaster. That's where your credit elsewhere test for everybody just doesn't work.

I'll give you another example. There was a little widow lady with a young boy down there. I think it was in Kentucky. Her mobile home was just washed away. She owed about half the cost of the home and they didn't even find the home. The banker said: "Listen, I can't say I wouldn't give her another loan because I know she'd do without food before she'd miss a payment."

So he would give her another loan. She still has got to pay for the one that has washed away and get a new one. Now, if she could meet the credit elsewhere test, she wouldn't be eligible for a subsidized interest loan. She is working for a minimum wage, trying to support a teenage boy and pay for a home that has already washed away.

Why should she not be able to get a loan?

Mr. HERTZBERG. In a situation like that she would not be excluded by the credit elsewhere test.

Mr. SMITH of Iowa. Why?

Mr. HERTZBERG. The credit elsewhere test would be, or has been applied, by an examination of the financial condition of the victim. Those that have the clear ability, through large equities and assets, to clearly be able to obtain the credit.

Mr. SMITH of Iowa. She doesn't have large assets but she has the ability to repay and the banker knows that she would repay at a certain number of dollars a month for a \$5,000 or \$10,000 home.

Mr. HERTZBERG. That individual, in that set of circumstances, would not be excluded under the credit elsewhere test.

Mr. SMITH of Iowa. Do you have rules to that effect?

Mr. HERTZBERG. Yes, sir.

Mr. SMITH of Iowa. She would be up until this point. Do you have new rules to that effect?

Mr. HERTZBERG. I don't think that they are new. I think that they would come through an interpretation of the rules that have been in effect for a long time.

Mr. SMITH of Iowa. You're putting a new twist on the credit elsewhere test then, that has not been applied before and I really doubt it. I request that your legal counsel respond under existing rules.

Mr. TECKLER. I would not doubt that the application has been as the Administrator of the program is saying.

Mr. SMITH of Iowa. You mean that she would be eligible?

Mr. TECKLER. I don't think that the credit elsewhere test would preclude the assistance in that circumstance. The fact of obtaining of credit might preclude it but the fact that she might be able to obtain credit—I believe that's what Mr. Hertzberg is saying—would not necessarily preclude her from receiving SBA credit in these circumstances.

Mr. SMITH of Iowa. Now, that's doubletalk. What are you saying? Just because she could?

Mr. TECKLER. To actually go out and obtain credit from the bank, I believe that is what Mr. Hertzberg is saying. That would be one thing as opposed to making an examination of the circumstances and making a subjective determination that she would be able to obtain credit.

Mr. SMITH of Iowa. Well, if she can't get a letter from a bank saying that she can't get credit, what is her next step?

Mr. HERTZBERG. May I interject?

Mr. SMITH of Iowa. Certainly.

Mr. HERTZBERG. Our practice in imposing the credit elsewhere test is not to require letters from banks or from the applicants. What we do is make an examination of the financial condition of the victim and a determination that they have that quantity of

assets that would indicate to us that the credit would be available from private lenders or from their own resources, without hardship.

In the absence of such a finding, we would make such a loan. If we do make a determination that—

Mr. SMITH of Iowa. Where's this, without hardship? I haven't heard those terms before. That's not in your proposal.

Mr. HERTZBERG. I'm really just indicating, practically, what has happened in the way the thing has been administered in the past.

Mr. SMITH of Iowa. It's on reasonable terms and credit, nothing about hardship. There's not been anything in the rules or the precedents or the customs about hardship, has there? It's been on whether or not they can get it on terms and credit.

Mr. HERTZBERG. Of course, whenever legislation is passed, then the practical way that the legislation is implemented is supported by regulations and they are written to provide for such circumstances. It has been our practice in the past to administer credit elsewhere tests in this fashion.

We would look at the financial condition of the victim. We would determine if the credit is, in our judgment, readily available and then if that was the case, then that person would have to provide substantial evidence that the credit was not available before we could provide assistance.

Mr. SMITH of Iowa. Well, in this specific case SBA said at the time that she is not eligible under the credit elsewhere test and that is when we got into a big argument about credit elsewhere tests.

Mr. HERTZBERG. In that particular case, if that was based on the fact that the lending institution would grant another loan for the purchase of another home, well, there might be a complicating circumstance. If that was covered by insurance and if the insurance made good the loss on the trailer, that might be another circumstance.

Mr. SMITH of Iowa. We're only talking about net losses. We have limited all these loans to net loss, after you recover insurance. But anyway, I just think you ought to rethink that credit elsewhere test because if you think that the only purpose for a disaster loan is to help the individual who gets the loan, why then I can understand it.

But that isn't the whole purpose for these loans. And then you have, also—if I have about 1 minute remaining—you have the circumstance where somebody may have a big net worth but he has suffered a disaster and he needs temporary financing; 2 months, 6 months, maybe even as much as 1 year. But the length of the loan depends upon the ability to repay.

He shouldn't have to go out and refinance an 8½-percent loan to get 3 or 4 months' financing. I don't think it is too much for a disaster victim to receive interim financing to keep him in business. Even if he has been a big taxpayer, that shouldn't exclude him from being able to get a loan when he meets the disaster requirements.

I think you ought to rethink this credit elsewhere thing and have a good many exceptions in it.

Mr. MITCHELL. Mr. Weber?

Mr. WEBER of Ohio. Thank you very much, Mr. Chairman.

I appreciate the fact that I am not a member of this subcommittee but I am a member of the full committee and when I heard about the testimony of the Administrator, Mr. Cardenas, I wanted to take this opportunity to come down and listen so I appreciate very much your courtesy.

Mr. Cardenas, I just have a few questions regarding the disaster loan program. Looking at the proposal to increase interest rates, have you made a calculation as to the amount the Government would be expected to save if that proposal to increase interest rates on disaster loans is adapted?

Mr. CARVER. I think if it were enacted, that in the first year they would pick up about \$7 or \$8 million in additional interest on roughly a \$100 million program, again assuming the current rate of about 13.

Mr. WEBER of Ohio. \$7 or \$8 million in the first year? Any other calculations?

Mr. CARVER. No, sir. We didn't go much beyond that.

Mr. WEBER of Ohio. Has any analysis been made of what percent of physical disaster loans that are made to individuals or businesses who might have been expected to foresee the potential for disaster and would have the means, privately, to insure against that type of disaster—is that type of calculation and analysis study been made?

Mr. CARVER. No, sir. It hasn't.

Mr. WEBER of Ohio. I understand that there is a 1979 General Accounting Office report which criticizes the disaster loan program because there is no assurance that loans are not going to be used in frivolous ways, especially by some of the wealthy borrowers and of course the credit elsewhere test would presumably eliminate that problem but aside from that, which does create other problems that have been brought out already in this hearing by Mr. Smith, would it be possible to reduce this program not by use of the credit elsewhere test but through tighter monitoring and tighter underwriting or through use of the clause that would accelerate the repayment if the loan funds were not used for the purpose originally granted?

Mr. HERTZBERG. Actually we do not necessarily agree with the findings of GAO in that respect. When a disaster loan is made the funds that are granted in the loan are specifically limited to the purpose for which they can be used. We do monitor this, within cost benefits considerations.

We certainly cannot go out and look at every case but upon finding that funds have been used in a manner other than was specified in the loan authorization, we do have some sanctions that can be brought to bear. We do feel that our present methods of disbursing loans and controlling proceeds do, for the most part, provide that they are used in the manner in which they have been designated.

Mr. WEBER of Ohio. Is there an acceleration clause in your loan agreements?

Mr. HERTZBERG. I am not positive at this point. I think there is though.

Mr. WEBER of Ohio. It is my understanding that many of these loans are made necessary by the need for compliance with Federal environmental safety and other regulatory requirements.

Will the SBA continue to provide assistance to businesses who have to make major expenditures in order to comply with Federal mandates?

Mr. HERTZBERG. Under proposed legislation, that program will not be continued. It is felt that, I think that the overall program of the administration would reduce regulatory requirements on the one hand and those that have to make such improvements could avail themselves of the regular 7(a) business program to provide that need.

Mr. WEBER of Ohio. I guess I have 1 minute remaining. It is my understanding or, rather, have you developed any new disaster loan allocation policies that would take into account the need to establish priorities among various eligible disaster victims and how are you going to allocate between two eligible applicants where there is a shortage of funds?

Mr. HERTZBERG. We feel that we are unable to prioritize between victims of disasters. We did recently impose some new restrictions that were intended specifically to provide equal benefit to all the remaining victims within our budgetary ability to fund them.

It is our intent to provide, as nearly as can be done, a uniform kind of assistance to all disaster victims.

Mr. WEBER of Ohio. Thank you very much.

Mr. MITCHELL. I'd like to observe, before calling on Mr. Gonzalez, that it is—let me put it as a question—are there not both criminal and civil penalties available for the person who makes a misstatement in the loan application? If he makes the statement: I'm going to use this to rebuild my barn and instead he buys \$10,000 worth of some pretty flowers, are there not criminal and civil penalties available?

Mr. HERTZBERG. There were, Mr. Chairman. In all honesty, they were contained in Public Law 91-606, which was the 1970 Disaster Relief Act, but I cannot tell you for sure that those have been continued in law. Possibly counsel can?

Mr. TECKLER. There are penalties for those circumstances.

Mr. MITCHELL. And they are presently still in the law?

Mr. TECKLER. Yes.

Mr. MITCHELL. Thank you very much.

Mr. Gonzalez?

Mr. GONZALEZ. Thank you, Mr. Chairman. I am having conflicts with my responsibility as chairman of the Subcommittee on Housing, to which I must return, as you know. You are a member, Mr. Chairman.

Mr. MITCHELL. I'm supposed to be there myself.

Mr. GONZALEZ. But I wanted to welcome our Administrator, Mr. Cardenas, aboard. And his staff. I am certainly delighted to see him in and appointed and am sure we will be working in cooperation.

In this general area of disaster, I think that my impression has been that this is one area where SBA has worked effectively. At least in the areas in proximity to the one I represent we have been fortunate and haven't had disasters in my own area but in some of

the surrounding territory we have and I have been very gratified. I do think that SBA has responded very effectively and I think the record ought to show that.

I didn't want to take up the time of the subcommittee because I will have to rush off, other than to thank you for your presence and your willingness to appear before the subcommittee.

Thank you, Mr. Chairman.

Mr. MITCHELL. At this time I would ask the unanimous consent if all members of the subcommittee could submit additional questions in writing to you, Mr. Administrator, because I know they have questions and yet they have other responsibilities.

I'd like to call your attention, Mr. Cardenas and Mr. Holloway, to a study that was done by the Subcommittee on Access to Equity Capital that is chaired by Congressman Nowak. The study was conducted last year and included some 4,843 small businesses.

Let me give you some of the results of that study.

No. 1, 28 percent of those businesses saw an inability to obtain bank financing.

No. 2, of those firms that borrowed after the Federal Reserve Board raised the discount rate on October 6, 1979, 64 percent of that number found it more difficult to obtain financing.

I would commend this report for your reading and your study because in view of a very methodical and painstaking study done by this subcommittee, chaired by Mr. Nowak, it seems to me that you are doing a disservice, really, to small businesses by forcing a small business to borrow direct loans at the market rate. I would urge that you at least look at this study before you attempt to lock that in cement.

Additional questions, Mr. Hiler? Mr. Smith?

Mr. SMITH of Iowa. One. You have a proposal that only the President can declare a disaster. I don't disagree with that. I think there have been some disasters declared that should not have been declared. But I wonder, do you have any estimate of, for the last year or two, of how many loans would not have been made had they been limited, had the disaster declarations been limited in the way you are anticipating now?

Mr. HERTZBERG. Not specifically, Mr. Smith, but I would venture to say that the difference in the number of loans would probably be very small.

Mr. SMITH of Iowa. You think that almost all of them would have been declared by the President, anyway?

Mr. HERTZBERG. If there was no SBA authority, then those that would not have been declared would have been extremely small disasters.

Mr. SMITH of Iowa. You don't think that is a very important provision in this proposal?

Mr. HERTZBERG. Actually I didn't notice in the legislation that that was mentioned. I may have missed it but I didn't see anything in there that would eliminate the Administrator's declaration authority.

Mr. SMITH of Iowa. Perhaps that was a policy statement?

Mr. TECKLER. Under the proposal, the Administrator would still have the authority to make a declaration.

Mr. SMITH of Iowa. He would?

Mr. TECKLER. Yes, sir.

Mr. SMITH of Iowa. Well then, would the Governor still request declaration?

Mr. TECKLER. That was the idea, the Governors would request and the discussion centered around the previous system in which the Governors had made requests and the decision was made to continue to have the Administrator make the decisions as well as Presidentially declared disasters.

Mr. SMITH of Iowa. Oh, you haven't changed that?

Mr. TECKLER. No, sir.

Mr. SMITH of Iowa. I knew you were considering it. How long have you been onboard?

Mr. TECKLER. About 2 years.

Mr. SMITH of Iowa. Do you think there have been disasters declared that probably shouldn't have been declared?

Mr. TECKLER. Sir, I'm not directly involved in that decisionmaking process nor in the administration of that particular program. I'd have to defer to the program head.

Mr. SMITH of Iowa. That's all.

Mr. MITCHELL. Thank you.

Mr. Cardenas, the hearing this morning was centered on the legislation that has been introduced and I think it has been made rather clear that most of the members of the subcommittee have very serious questions about the legislation that the administration has recommended and we will be asking you to come back before us again.

In addition, we will conduct hearings in this subcommittee on specific components of the SBA programs. There will be times we will look at one particular component in a hearing. Although the intent was to deal with the legislation that has been introduced at the request of the administration, we have gotten into one or two procedural questions.

While that gate is open, I'd like to just ask three or four questions with reference to procedure. One, it appears that there is an inordinate amount of time taken to process applications for 8(a) certification. It is my recollection that the past Administrators that have come before this committee and subcommittee, saying it was their intent to process such applications in 90 days. Either yes or no.

In some cases we have found that SBA has taken up to 2 years. Specifically, can we expect from you a strict enforcement on the 90-day time limit, for processing?

Mr. CARDENAS. Mr. Chairman, I am in the process now of starting a review on our 8(a) department and be assured that I would be glad to take that issue under consideration. I can't commit until I, of course, have made a thorough review and formed some opinions as to the operations of our 8(a) program. But I will certainly take that under serious consideration.

Mr. MITCHELL. I would hope so. Even if you say it is going to take 120 days, or 60 days, I think it does a disservice to the person who has applied, if they are left dangling in the wind for 2 years. So I would hope that you would focus in very sharply on that.

Another problem that I am having is, well, let me talk about the Philadelphia office for just a moment. There is a backlog of 400

cases up there, as you possibly know. With reference to the Philadelphia regional office, I have been advised that there is a freeze on processing requests for advance payments. As you would know, many of the contractors depend upon the advance payment to resolve any potential cash flow problems that they must have.

The Philadelphia regional office has said that it is short of staff and for this reason it has imposed a freeze on processing requests for advance payments. Do you have any knowledge about that?

Mr. CARDENAS. Yes; I have been made aware of that and certainly it is one of the many areas that requires our attention.

Mr. MITCHELL. I would hope that would be resolved very speedily because, in essence, if you put the freeze on you are calling for the demise of certain businesses. That's the actual process, the actual fact of the matter.

Just two other brief questions and we'll probably ask it at one of your next hearings: What have you done with reference to clearing up the problems associated with these four questions? Again, I have been advised that some regions in the country—the Atlanta regional office for example—have imposed their own limit on the amount of a direct loan to be made available to an individual businessman.

I have been advised that in Atlanta the limit is \$150,000. Do you have any knowledge about that self-imposed limitation on direct loan money?

Mr. HOLLOWAY. Mr. Chairman, we have an administrative limitation on direct lending of \$150,000 in the regular business loan program, except where in the past that administrative limitation is waived for good cause shown by the regional administrator.

In our recent interim instructions to the field offices, with respect to the fact that we are going to have guarantee and direct money for fiscal 1981, we asked that our regional administrators provide no exception to the \$150,000 administrative limitation so in reality it is a limitation that we imposed in the program area rather than a local limitation imposed by Atlanta.

Mr. MITCHELL. Then you would have a circumstance in which you have had a business that has been doing fairly well for 4 years, employing 15 people, and it sees an opportunity for expansion. Has good credit rating, good performance, and so forth. It needs \$152,000. That business would be denied?

Mr. HOLLOWAY. If they had a good credit rating and good performance, we would attempt to assist them to get additional funding through the private sector and our guarantee loan program.

Mr. MITCHELL. But under no circumstance would you violate the \$150,000?

Mr. HOLLOWAY. Under no circumstances, for the present time, would we violate the \$150,000 limitation unless our Administrator approved it.

Mr. MITCHELL. Unless the Administrator approved it. I think you have to allow for some flexibility there. I think you have got to. It would be foolish, really, not to allow a company that has a good record, to expand, create more jobs, because of an inflexible rule.

Mr. HOLLOWAY. You are right, Mr. Chairman. We need some flexibility there and our thought was that with respect to the very limited amount of direct funding available, we can be of assistance

to more small businesses if at least during the remainder of fiscal 1981 we stick with our \$150,000 administrative limitation.

Mr. MITCHELL. Again, Mr. Administrator, I would ask that you focus in on that. I think an inflexible policy will do severe damage to the whole thrust of the SBA program. As I understand it the statute allows for a loan up to \$350,000. Is that correct?

Mr. HOLLOWAY. That is correct.

Mr. MITCHELL. And you are imposing a limitation at less than one-half that level?

Mr. HOLLOWAY. We did it, actually, by regulation. We did it by regulation.

Mr. MITCHELL. That one slipped by me. That regulation did.

Do you have any other questions, Mr. Weber?

Mr. WEBER of Ohio. No, thank you.

Mr. MITCHELL. I have one last question. Well, I'll hold that and submit it. I have several questions. I'll just submit them to you.

Thank you very much, gentlemen, for being with us this morning. I look forward to working with you and hope that we can really make this a very viable agency of Government.

Mr. CARDENAS. I look forward to that, Congressman. Thank you very much.

Mr. MITCHELL. Thank you. The hearing stands adjourned.

[Whereupon, at 10:10 a.m. the subcommittee adjourned, to reconvene subject to call of the Chair.]

[Questions submitted by Mr. Mitchell and Mr. McDade, and SBA's responses follow:]

QUESTIONS BY MR. MITCHELL

GUARANTEED LOAN LIMIT

Question 1. The administration's loan consolidation request includes an increase in the maximum amount of an SBA loan which may be guaranteed. Under existing law this limit is \$500,000 per borrower and you proposed increasing it to \$750,000 per borrower.

In view of the one-third reduction in the guaranteed lending program for fiscal year 1981-82, how many borrowers will be denied any guaranteed loan assistance if the maximum amount is increased as you have proposed?

Answer. At this point, it is very difficult to estimate the impact of the proposed change in terms of number of loan applicants. Since the Agency intends to use this increased authority very sparingly, it is anticipated that the impact would be limited in this regard. Over the past five years, since the ceiling was raised \$350,000 to \$500,000, the estimated average of loans made between the \$350,000 and the statutory ceiling has been approximately 24 percent of the total dollar value of loans made, but only 6 percent of the number of loans made. The percentage of funds used in loans in excess of the \$500,000 level will be well below that figure.

DIRECT LOAN INTEREST RATES

Question 2. The administration's request includes an increase in the interest rate on direct loans to market rates which your statement puts at 19 percent today. This would be in lieu of present statutory rates ranging from a low of 3 percent to a high of 11 1/2 percent.

How many small businesses do you estimate would be denied assistance due to lack of ability to repay the loan because of your proposed increase in interest rates?

Answer. It is not anticipated that any direct loan applicants, who would have otherwise been approved, would be denied based upon the increase in interest rates on SBA direct loans to a market rate. It is anticipated that where this would represent a problem, an adjustment would be made in the loan maturity.

Question 3. The market rates you have proposed will actually yield a profit as the current cost of comparable length money is only 13 percent. Under the provisions of Public Law 96-302 these profits must be paid to the Treasury.

Why should the Treasury make a profit of almost 50 percent on the interest rates it charges small business?

Answer. The Agency does not agree that this change would result in a profit to the government. The current cost of money is based solely on the cost to the Treasury of the dollars used. It does not take into account either the administrative costs incurred by the Agency or the losses incurred in some cases. While the net effect may be an offset of a part of Agency expenses, it is clear that no profit will result.

SPECIAL LOAN PROVISIONS

Question 4. In response to needs of the small business community, Congress established separate business loan programs to assist disadvantaged individuals under section 7(i), solar and energy conservation firms under section 7(l) and handicapped individuals and organizations of handicapped under section 7(h). Each of these programs have eligibility criteria which are somewhat relaxed from that imposed under section 7(a).

Since your proposal would repeal these programs, how will these groups which Congress has targeted for assistance be assisted?

Answer. In consolidating our six business loan programs into one business loan program the intent is to reduce complexities, streamline the management of the loan programs, and eliminate confusion. There is no intent to eliminate the eligibility of any applicants who are presently eligible. Indeed, it would permit SBA to make financial assistance available to any qualified small business for any legitimate business purpose consistent with the provisions of the Small Business Act. Accordingly, there is none who is eligible that would not be eligible under a consolidated plan.

Question 5. Congress has also established seven nonphysical disaster loan programs and a water pollution control loan program, all of which you would repeal. Repeal of these programs, coupled with 100 percent direct loan targeting, would virtually eliminate any eligibility of, for example, displaced businesses or those who have to meet requirements of Federal laws from obtaining any direct loan assistance. Reduced guaranteed levels coupled with targeting guarantees would also greatly reduce any chance of their obtaining a guaranteed loan.

How do you propose to assist these small businesses?

Answer. Termination of the non-physical disaster program is justified for several reasons. Such broad authority creates a major threat to the budget by suggesting that such assistance is an entitlement. Such loans dissipate SBA's budgetary authority for dealing with the more tangible effects of physical disasters. Such authority is based on the questionable premise that Federal regulatory actions to protect the general public health, safety or welfare should create compensable claims against the Government. However, assistance will be available to these applicants as well as all small businesses through our proposed consolidate loan program.

Question 6. Many small development companies cannot qualify for guarantees under the new 503 program. How will they be helped since SBA's budget does not include any direct loan money?

Answer. We believe the 503 program will enable local development companies (LDCs) that qualify for 503 certification to increase their level of activity and be of greater assistance to small business concerns in their area of operation. In fact, most of the active LDCs under 502 have applied for and received certification under the 503 program. The interest and enthusiasm demonstrated by LDCs applying for 503 certification is evidence of the positive impact the 503 program will have on enhancing their assistance and effectiveness to small business.

FLOORS AND CEILINGS

Question 7. Which of the administration's budget reductions would set levels below salaries and expense levels for fiscal year 1981-82 mandated in section 20 of the Small Business Act?

Answer. See chart, p. 138.

FREEDOM OF INFORMATION

Question 8. It has been brought to my attention that one of the new procedures at the Central Office is to require all inquiries to the Regional and District Offices to go through the Deputy Administrator's Office. In other words, if there is a problem

between a small businessman and an SBA officer, before the appropriate staff at the national level can become involved in the resolution of that problem, he must first clear it through the Deputy Administrator. Because there are a number of inquiries made through my office to the National Office regarding either a direct loan package or 8(a) certification, this could be very cumbersome, and slow down the resolution of these problems, at the expense of the businessman. Do you plan to alter that policy so that national inquiries can be made to the regional and district levels more expeditiously?

Answer. Inquiries to the Regional and District Offices are handled locally. There are no directives that requires that such inquiries be routed through the Deputy Administrator's Office.

ATTACHMENT—SALARIES AND EXPENSES

FISCAL YEAR 1981 AND FISCAL YEAR 1982 REVISED BUDGETS VERSUS FLOORS AND CEILINGS AS INDICATED BY PUBLIC LAW 96-302

(Dollars in thousands)

	Fiscal year 1981			Fiscal year 1982		
	Public Law 96-302		Revised budget	Public Law 96-302		Revised budget
	Floors	Ceilings		Floors	Ceilings	
Procurement assistance.....		\$13,200	\$11,172		\$14,520	\$10,208
Technology assistance.....	2,000		3,353	2,100		2,318
TA centers.....	(825)		(1,223)	(907.5)		(175)
PASS.....	(629)		(903)	(692)		(903)
Forestry study.....		200	190			
Management assistance.....		23,100	21,459		25,400	21,876
Export.....	880		880	968		1,460
Advocacy.....		9,900	5,678		10,890	5,668
69 staff positions.....	2,200		2,828	2,420		2,818
External D.B.....	1,650		1,000	1,815		1,000
Advocacy research.....	1,650		850	1,815		850
Indicative D.B.....	1,100		1,000	1,210		1,000
Minority small business.....		27,500	22,402		30,250	22,566
7(j).....		12,414	10,000		13,655	10,000
Data management.....		8,800	8,307		9,690	11,546
Small business development centers.....		20,550	5,525			
SBDC administration.....		(550)	(725)			
Salaries and expenses.....		242,000	¹ 234,547		266,000	² 221,669

¹ Includes 24,007 for disaster loan making.

² Includes 10,700 for disaster loan making.

QUESTIONS BY MR. MCDADE

DISASTER QUESTIONS

Question 9. How much money will the government save if your proposal to increase interest rates on disaster loans is adopted?

Answer. It is most difficult to predict the demand on Disaster Assistance and is of little purpose to attempt to anticipate the budgetary savings relevant to the latest procedures and eligibility changes to our Disaster Assistance Program. However, in our Business Lending Programs we are proposing to increase the statutory interest rates to a rate equal to the current cost of Government Borrowings. Therefore, if you were to assume a 13 percent cost of Government Borrowing, for every \$100 million in Home Loans disbursed \$9.7 million in additional first year interest would be received to offset the program costs. In the case of Disaster Business Loans the off-setting costs would be \$7.9 million.

Question 10. One goal of the proposed changes is to end the disincentive for individuals and businesses to make sound locational decisions. What percent of physical disaster loans are made to individuals or businesses who might have been expected to foresee the potential for disaster?

Answer. There is no statistical or defined percentage answer to this question since identification of such borrowers is a judgment determination which can only be

made on a case by case basis. Normally, they fall into two categories. By far the largest category would include those victims who had elected not to insure against a reasonably insurable loss. This would normally include fire and windstorm loss victims for whom insurance coverage is generally available. It would also include flood victims in those areas where reasonable cost, subsidized flood insurance is available.

The second, far smaller category, would include those victims that knowingly, or thoughtlessly, elected to locate where a particular type of disaster should have been reasonably anticipated to occur. This category is generally limited to those that would locate in an identified flood hazard area.

Question 11. OMB contends that many nonphysical disaster loans are necessitated by poor business judgment. However, many of these loans are made necessary by the need for compliance with Federal environmental, safety and other regulatory requirements. Will SBA continue to provide assistance to businesses who must make major expenditures in order to comply with these Federal mandates?

Answer. SBA would continue to provide assistance through its regular 7(a) loan program since compliance with federal regulations would remain as an eligible loan purpose. It is also anticipated that the Administration's actions to reduce federal regulations will reduce to some extent the demand for this type of assistance.

Question 12. OMB contends that unless these changes are made, the demand for 1981 disaster assistance would exceed \$4.9 billion. However, the Carter budget recommended \$1.5 billion in budget authority and \$2.3 billion in outlays. How did SBA arrive at its \$4.9 billion figure?

Answer. The basic difference between the disaster program and other governmental credit programs is that it is a very unpredictable set of events that triggers the program. When predictions are made in the disaster program, the severity of individual events can easily result in an unexpected shortage of budgetary authority. History can certainly help us in estimating program needs over a period of years, but in an individual year those estimates can easily be upset.

In this budget year, the impact of the droughts were not predictable, particularly considering that victims had eligibility with both SBA and FmHA. The bulk of the workload did not hit SBA offices until late December. In February, SBA determined it had approved loans of approximately \$1 billion, had approximately \$1 billion in applications on hand, and initial field estimates were that approximately \$2.9 billion in additional applications could be anticipated. These figures result in a \$4.9 billion anticipated requirement prior to consideration of future disasters which could be reasonably expected to occur through the remaining six months of the fiscal year.

LOAN CONSOLIDATION

Areas that may no longer be eligible

Question 13. In the current SBA Act, home builders are authorized to receive loans. In addition, loans for commercial construction and rehabilitation are authorized. Do you intend to continue eligibility for these vital sectors of our economy?

Answer. Yes. See number 4 above.

Question 14. The following applications of loan proceeds are authorized in the Act: purchase of equipment, machinery, and supplies; working capital; line of credit. Why were they deleted?

Answer. The deletion of specific loan purposes from the Act was not made to exclude these items as eligible loan purposes, but rather to simplify the language of the Act and provide a broad authority consistent with the purpose of the Agency. It is felt such specificity can be unintentionally limiting as economic and technological changes occur. The required specificity is contained in regulations as appropriate.

Interest rates and terms

Question 15. Exactly what is the "market rate of interest"?

Answer. A market rate of interest is simply a fairly narrow range of rates commonly charged by commercial lenders for loans of similar purposes and terms across the nation.

Question 16. How will it be determined?

Answer. The specific manner in which this rate would be determined has not yet been formulated. If enacted, the options would be studied, presented to the Administrator, and the appropriate method would be offered for public comment through the rule making process.

Question 17. Commercial loans now average four years. SBA loans average seven to ten years. If the term of an SBA loan is expanded to thirty years, what is contemplated to be the average term?

Answer. Since the bulk of the loans presently made by SBA are made under the guaranty loan program, and presently bear a market interest rate, it is not anticipated that there would be a significant change in average loan term. Loan maturity would continue to be determined by broad loan purpose and the ability of the borrower to repay.

Program accountability

Question 18. If the loan programs are consolidated, what accountability method will the SBA adopt to allow oversight of program usage by Congress?

Answer. Under the proposed consolidation the SBA plans to maintain its lending programs under various priority markets such as and including 1) Disadvantaged, 2) Women, 3) Handicapped, etc. It is much more realistic to have substantive data on various market groups as opposed to the traditional 7(a) which could easily cut across many of these priority markets.

Question 19. If the Congress agrees to drop program-by-program staff allocations, what method of accountability will the SBA adopt?

Answer. Same as 18 above.

SBA LOAN PROGRAMS

Question 20. The SBA proposes raising the interest rates for all direct loans to a single "market rate". Can you describe for us exactly what that "market rate" will be? How often will it be determined?

Answer. See answers to questions 15 and 16 above.

Question 21. Can you describe for us the impact of raising the direct loan rates to a single "market rate"? How many more businesses will be able to participate in comparison to current levels? Have you assessed what the impact of such interest rate increases will be on fledgling businesses which face many costs in trying to get off the ground?

Answer. With regard to the impact of the rate increase, we believe it is most important that the limited direct funds available in this program are used to help those concerns that simply cannot obtain assistance from any other source. I understand the Agency has tried many different administrative procedures in attempts to accomplish this desirable goal. None have really proved successful, nor do we believe that any can be successful so long as direct loans are made at less than half the market interest rate.

Certainly we recognize that the lower rate would be beneficial to those businesses that truly cannot obtain assistance through private lenders—either with SBA's guaranty or without it. However, we believe that a needy business, unable to obtain funds in any other manner, will be better off with a loan at or near market rates than it would be without a loan because the demand for direct loans was so intense that the limited funds were used up by qualifying less needy borrowers.

Herein is the basic reason for the proposed change.

Question 22. The Senate in its budget proposal has recommended collapsing SBA's direct loan program into the guaranteed program. Does the agency have a position on this suggestion?

Answer. The Agency has, in its budget request, included funding for the direct loan program.

Question 23. One reason for keeping the various loan programs separate is to keep a handle on how much funding each category received, what the demand for such loans is, what the default ration is, and so forth. How do you propose to continue such functions, if the recommended consolidation legislation is enacted? How will the agency determine how much funding should be allocated to each type of loan within the consolidated program.

Answer. Same as answer to question 18.

Question 24. Cost/benefit analyses have demonstrated that, despite administrative cost, guarantee fees and loan defaults, the benefits of the guaranteed loan program far outweigh its costs. Have you undertaken or reviewed such analyses in this area?

Answer. We have not conducted, nor are we aware of such analyses; but we support the Administration's economic recovery program as offering small business in general the best opportunity for expansion and economic well being.

Question 25. What increases in 7(a) guaranteed loans, if any, does the SBA predict from increased use of the Bank Certification Program?

Answer. It is not anticipated that expanded use of the Bank Certification Program will increase the volume of SBA's 7(a) guaranty loan program. The principal objective of this program was to improve service to participating lenders and their small business customers while working the best use of our limited personnel resources.

Question 26. Small business owners are very concerned about interest rates. Do you have any economic analysis that indicates how soon the Reagan economic package will reduce interest rates?

Answer. Since the Small Business Administration programs represent only a part of the overall administration efforts to control inflation and bring down interest rates, we do not believe we are in a position to provide a reasonable answer to this question.

